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SUPPLEMENTAL INFORMATION REGARDING THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM ACT OF 1986

REPORT

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

OCTOBER 1986

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SUPPLEMENTAL INFORMATION REGARDING THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM ACT OF 1986

INTRODUCTION

On June 6, 1986, the President signed into law H.R. 2672 as amended by S. Con. Res. 142, the Federal Employees' Retirement System Act of 1986 (P.L. 99-335). The Conference Report accompanying H.R. 2672 included a statement of managers that explained the broad intent of the legislative language. Supplementing the Conference Report, this Committee Print gives more detailed explanations of the specific provisions and legislative background. Following is a brief description of the items included herein.

1. The section-by-section analysis indicates the Committee's understanding of details of the legislation.

2. The outline of the Federal Employees' Retirement System was drafted by Committee staff to provide a summary of the main provisions. This is a slightly edited version of an outline used in negotiations among House and Senate conferees and the Administration during May, 1986.

3. The analysis by Congressional Research Service indicates both estimated long-range actuarial costs (entry-age-normal cost as a percentage of covered payroll) and replacement rates (the percentage of a worker's pay expected to be replaced by income available from the new program including Social Security).

4. The analysis by Congressional Budget Office indicates the estimated budget impact of the new program, in the form of year-by-year dollar figures.

5. The Illustration of Calculation of Supplement, prepared by Edwin C. Hustead of Hay/Huggins Company, with assistance from Bruce Schobel and Tim Kelley of the Social Security Administration, sets forth three examples of the technical procedures to be used in computing the Supplement payable in certain cases of retirement before social security old-age benefits become available at age 62. These procedures are based on the methods used under the Social Security Act to compute the worker's benefits at age 62; an assumed history of earnings is used in some cases.

First, a year-by-year history of earnings covered by social security is constructed for the worker. Next, each year's covered earnings are wage-indexed to adjust for past inflation, averaged over a fixed number of years and converted to a primary insurance amount (PIA) using a formula that is weighted or

tilted to favor workers with relatively low average indexed earnings. Finally, the PIA is reduced to reflect commencement at age 62, and is prorated over 40 years to determine the portion attributable to federal service, to arrive at the amount of the Supplement.

6. The Illustrations of Earnings Test were drafted by Committee staff, to indicate the manner in which the Supplement otherwise payable to certain retirees before age 62 would be reduced to reflect any further earnings by the retired worker. In general this earnings test follows the formulas and procedures used under the Social Security Act, but uses a retrospective adjustment method that does not consider earnings until after they have been received.

SECTION-BY-SECTION ANALYSIS

Section 100(a) provides for the short title of the Act which is the "Federal Employees' Retirement System Act of 1986".

Section 100(b) provides for the table of contents.

Section 100A provides for the purposes of the legislation. The purposes delineated include establishing a Federal retirement plan to coordinate with Social Security, ensuring a fully funded and financially sound Federal retirement program, enhancing portability of retirement assets earned as an employee of the Federal Government, providing options for Federal employees in retirement planning, encouraging Federal employees to increase personal savings for retirement, and extending financial protection from disability and building a quality career work force in the Federal Government.

Section 101. Federal Employees' Retirement System establishment

Title I establishes a new program of retirement and other benefits for most Federal civilian employees who are covered by Social Security. Because Social Security covers all employees newly hired or rehired with a break in service exceeding a year on or after January 1, 1984, this new program will gradually supersede the existing Civil Service Retirement System (CSRS).

Section 101(a) adds a new Chapter 84 to title 5, United States Code, after Chapter 83—Retirement, which continues to set forth the current Civil Service Retirement System. Chapter 84, entitled "Federal Employees' Retirement System" is subdivided as follows:

SUBCHAPTER I—GENERAL PROVISIONS

SUBCHAPTER II—BASIC ANNUITY

SUBCHAPTER III—THRIFT SAVINGS PLAN

SUBCHAPTER IV—SURVIVOR ANNUITIES

SUBCHAPTER V—DISABILITY BENEFITS

SUBCHAPTER VI—GENERAL AND ADMINISTRATIVE PROVISIONS

SUBCHAPTER VII—FEDERAL RETIREMENT THRIFT INVESTMENT MANAGEMENT SYSTEM

SUBCHAPTER I—GENERAL PROVISIONS

This subchapter sets forth basic definitions used in this chapter, many of them identical or similar to those used in Chapter 83.

Section 8401. Definitions

Paragraph (1) defines an employee's, Member's or former employee's or Member's "account" to mean the record of thrift plan funds held on that person's behalf.

Paragraph (2) defines "annuitant" to mean a former employee or Member who has applied to receive an annuity under subchapter II or V that he or she is entitled to receive.

Paragraph (3) defines "average pay" to mean the employee's highest average rate of basic annual pay, computed over 3 consecutive years, or over the period of total credited service if less than 3 years.

Paragraph (4) defines "basic pay" as defined in section 8331(3), except with respect to its usage for the Thrift Plan.

Paragraph (5) defines "Board" to mean the Federal Retirement Thrift Investment Board established under section 8472(a).

Paragraph (6) defines "Civil Service Retirement and Disability Fund" or "Fund" to mean the existing fund established under section 8348.

Paragraph (7) defines "court" to mean any court of any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, or the Virgin Islands, and any Indian Court.

Paragraph (8) defines "Director" to mean the Director of the Office of Personnel Management (OPM).

Paragraph (9) defines "dynamic assumptions" to mean economic assumptions that reflect long-term future changes in wages, prices and interest rates and are used in determining actuarial costs for a retirement system.

Paragraph (10) defines "earnings" of the Thrift Savings Fund to mean the investment yield received or the gain realized.

Paragraph (11) defines "employee" to mean—

(A) an individual described in subparagraph (A), (E), (F), (H), (I), or (J) of section 8331(1), relating to employees of a Federal department or agency, U.S. Commissioners, employees of a county committee established under section 590h(b) of title 16, employees of Gallaudet College, staff members of a former President, certain aliens employed by foreign governments and serving the interests of the U.S., and employees of the U.S. Park Police and the U.S. Secret Service; and

(B) a Congressional employee as defined in section 2107, including a temporary Congressional employee and an employee at the Congressional Budget Office,

provided that the individual had some period of Federal civilian service covered under Social Security after 1983, excluding (i) persons designated by certain clauses of section 8331, relating to Federal justices or judges, employees covered by another Federal retirement system (other than U.S. Park Police and U.S. Secret Service), certain temporary employees of the courts, certain employees of the Tennessee Valley Authority, certain student-employees and teachers employed during summer recess periods and (ii) any individual excluded under section 8402(c) relating to temporary or intermittent employees.

This definition no longer includes employees of the District of Columbia.

Paragraph (12) defines "former spouse" to mean a former spouse of an individual who performed at least 18 months of civilian service and who was married to such former spouse for at least 9 months.

Paragraph (13) defines "Executive Director" to mean the individual appointed under section 8474(a).

Paragraph (14) defines "firefighter" to mean an employee with rigorous firefighting duties that require young and vigorous individuals, as determined by OPM after considering the recommendations of the employing agency, and an employee who is transferred directly to a supervisory or administrative position after performing 10 years of actual firefighting duty. This is a more restrictive definition than under present law. It is expected that OPM will review every position that an agency requests to be treated as a firefighter position and authorize the usage of this definition only where an employee in that position will actually and directly participate in firefighting activities. The conference amendment added the caveat of supervisory and administrative positions to encourage upward mobility in career employment. However, to qualify for the definition, such employees in supervisory or administrative positions must have at least 10 years of actual firefighting duties.

Paragraph (15) defines "Government" to mean the Federal Government and Gallaudet College.

Paragraph (16) defines "Indian Court" to have the same meaning as provided in section 8331(24).

Paragraph (17) defines "law enforcement officer" to mean (A) an employee with rigorous law enforcement duties that require young and vigorous individuals, as determined by OPM after considering the recommendation of the employing agency, and (B) an employee who is transferred directly to a supervisory or an administrative position after performing 10 years of actual law enforcement duty. It also includes (C) employees of the Bureau of Prisons or Federal Prison Industries, Incorporated, Public Health Service employees assigned to field service in such prisons, or employees of Armed Services disciplinary facilities whose duties include having frequent direct contact with individuals in detention and which require young and vigorous individuals to perform such duties, as determined by the agency head.

This is generally a more restrictive definition than under present law. The limitations in the usage of this definition are similar to those for the firefighter definition. It is expected that far fewer positions will be defined as law enforcement positions than under current law. These positions are reserved for employees who must be youthful and vigorous as a consequence of the duties of these positions. Hence, special early retirement provisions are made applicable to those positions. Early retirement is not intended as a benefit for hazardous duty employment. Rather, it is intended to maintain a youthful and vigorous workforce. Employees serving in administrative or supervisory positions in law enforcement or firefighting may qualify for the preferential benefits if they are serving in positions that meet the definition of a law enforcement officer or firefighter, regardless of what they are called. Only employees who serve in such positions for at least 10 years will qualify for the preferential benefits.

Paragraph (18) defines "loss" with respect to the Thrift Savings Fund to mean loss experienced from the investment of sums in such Fund.

Paragraph (19) defines "lump-sum credit" as the unrefunded amount consisting of (A) retirement deductions made under section 8422(a) or under the Federal Employees' Retirement Contributions Temporary Adjustment Act of 1983; (B) amounts contributed by an employee or Member under section 8422(e) relating to military service credit; and (C) interest on the deductions and deposits which for any calendar year shall equal the overall average yield to the Fund during the previous fiscal year from obligations purchased by the Secretary of the Treasury under section 8348 (c), (d) and (e). It does not include interest for service less than one year or for a fractional part of a month.

Paragraph (20) defines "Member" to mean a Member of Congress, except a Member who makes an irrevocable election not to participate in the Federal Employees' Retirement System (FERS).

Paragraph (21) defines "net earnings" of the Thrift Savings Fund to mean the excess of earnings over losses.

Paragraph (22) defines "net losses" of the Thrift Savings Fund to mean the excess of losses over earnings.

Paragraph (23) defines "normal cost percentage" to mean the entry-age normal cost of retirement and related benefits, computed by OPM as a level percentage of basic payroll using generally accepted actuarial practices and standards including dynamic assumptions, i.e., assumptions that anticipate future changes in wages, prices and interest rates.

Paragraph (24) defines "Office" to mean the Office of Personnel Management.

Paragraph (25) defines "price index" to mean the same version of the Consumer Price Index that is used under Chapter 83.

Paragraph (26) defines "service" to mean service creditable under section 8411.

Paragraph (27) defines "supplemental liability" to mean the actuarial value of future benefits not covered by current and future deductions from pay of employees and Members covered by this chapter, current and future contributions to be made by employing agencies and the Fund balance attributable to the System or to contributions made under the Federal Employees' Retirement Contributions Temporary Adjustment Act of 1983.

Paragraph (28) defines "survivor" to mean an individual entitled to an annuity under Subchapter IV.

Paragraph (29) defines "System" to mean the Federal Employee's Retirement System described in section 8402(a).

Paragraph (30) defines "military reserve technician" to mean a military reserve member who is assigned to a civilian technical position which may be filled only by a military reserve member serving in a specified military grade. This definition includes national guard technicians.

Paragraph (31) defines "military service" to mean active service in the Armed Forces, the Public Health Service commissioned corps after June 30, 1960 or in the commissioned corps of the National Oceanic and Atmospheric Administration or predecessor organizations after June 30, 1961. It does not include National Guard service except when ordered to active service of the United States.

Section 8402. Federal Employees' Retirement System; exclusions

Subsection (a) states that chapter 84 comprises the Federal Employees' Retirement System.

Subsection (b) states that the provisions of chapter 84 shall not apply to (1) certain employees and Members employed continuously since December 31, 1983, and who were covered by Social Security, (2) individuals who are rehired after completing at least 5 years of creditable service and who were subject to chapter 83 or subchapter I of the Foreign Service Act of 1980, or (3) employees with 5 years of creditable chapter-83 service performed before January 1, 1987, unless individuals in these categories elect to join the new system.

Subsection (c) states that all employees and Members are participants in the FERS except temporary or intermittent employees who are excluded by OPM, the Architect of the Capitol, the Librarian of Congress, or the Director of the Botanical Gardens.

Section 8403 provides that except where specifically mentioned, the benefits payable from FERS are in addition to benefits payable under the Social Security Act.

SUBCHAPTER II—BASIC ANNUITY

Subchapter II describes the basic annuity plan, which is a defined benefit plan covering all permanent employees who were hired or rehired with less than five years of service under CSRS after December 31, 1983, and Members of Congress who began service after such date plus any employees or Members subject to the CSRS who elect to transfer to the new plan.

Section 8410. Eligibility for annuity

This section requires that an employee or Member complete at least 5 years of creditable civilian service to receive an annuity under this subchapter.

Section 8411. Creditable service

Subsection (a) provides that total service is computed as full years and twelfth parts thereof, excluding fractions of months, and that no credit is allowed for a period of separation exceeding 3 days.

Subsection (b) provides that creditable service includes—

(1) service as an employee or Member after December 31, 1986;

(2) service while contributing to the interim plan;

(3) service before January 1, 1989, which was either non-covered or was not vested under CSRS in which case a contribution must be made under subsection (f); and

(4) service under the Foreign Service Pension System if the employee or Member waives credit under that system and makes a payment to the Fund of the employee contribution for such service, plus interest.

Subsections (c) (1) and (2) provide that military service is credited under the following circumstances:

(a) All service before 1957;

(b) Post-1956 military service if a deposit is made at the 3-percent rate required in section 8422(e) during civilian employment; and

(c) Military service for which a pension has been awarded as a result of disability incurred during wartime or of service in the military reserve.

Subsection (c)(3) provides that where a deposit has been made under section 8334(j), the amount of deposit in excess of the amount payable at the 3-percent rate is refunded.

Subsection (d) provides credit for leaves of absence without pay while performing military service or while receiving worker's compensation benefits. Other leaves of absence are credited up to 6 months in any year.

Subsection (e) provides that leaves of absence granted to an employee who serves as a full-time employee or officer of an employee organization are credited only if the employee pays both the employee's and employer's share of the normal cost contribution.

Subsection (f) provides that for service to be creditable under subsection (b)(3) the employee, Member, or survivor must deposit to the fund 1.3% of pay for the period involved, plus interest.

Section 8412. Immediate retirement

This section indicates the age and service required for an employee or Member to receive retirement benefits immediately upon separation from service on a completely voluntary basis. Section 8414 indicates additional provisions for immediate retirement benefits payable in certain cases when separation is fully or partly involuntary.

Subsection (a) provides for immediate retirement benefits at the minimum retirement age specified in subsection (h) with 30 years of service.

Subsection (b) provides for immediate retirement benefits at age 60 with 20 years of service.

Subsection (c) provides for immediate retirement benefits at age 62 with 5 years of service.

Subsection (d) provides for immediate retirement benefits at age 50 for a law enforcement officer or firefighter who has served in one or both occupations for 20 years, or at any age after serving for 25 years.

Subsection (e) provides for immediate retirement benefits at age 50 for an air traffic controller who has served in such an occupation for 20 years, or at any age after serving for 25 years.

Subsection (f) provides for immediate retirement benefits at age 50 for a Member with 20 years of service, or any age with 25 years of service.

Subsection (g) provides for immediate retirement benefits to those not eligible under any other provision of this section at the minimum retirement age specified in subsection (h) with 10 years of service.

Subsection (h) specifies the minimum retirement age, which depends on the individual's year of birth, as follows—

Year of Birth	Minimum Retirement Age
Before 1948	55 years
1948	55 years and 2 months

Year of Birth	Minimum Retirement Age
1949	55 years and 4 months
1950	55 years and 6 months
1951	55 years and 8 months
1952	55 years and 10 months
1953–1964	56 years
1965	56 years and 2 months
1966	56 years and 4 months
1967	56 years and 6 months
1968	56 years and 8 months
1969	56 years and 10 months
1970 and after	57 years

Section 8413. Deferred retirement

This section indicates the age and service needed to become entitled to deferred retirement benefits.

Subsection (a) provides for deferred benefits for an individual who separates from service with 5 years of service, commencing at age 62.

Subsection (b) provides for deferred benefits for an individual who separates from service with 10 years of service, commencing at any date the individual elects which is not before the minimum retirement age specified in subsection 8412(h) and is before age 62.

Section 8414. Early retirement

This section indicates the age and service needed to get immediate retirement benefits upon separation from service in certain cases when separation is fully or partly involuntary.

Subsection (a) provides for immediate retirement benefits for a member of the Senior Executive Service, Defense Intelligence Senior Executive Service or Senior Cryptologic Executive Service who is removed from such service for inadequate performance after 25 years of service or age 50 with 20 years of service.

Subsection (b) provides for immediate retirement benefits at age 50 for an employee with 20 years of service or at any age after 25 years of service, in the case of an employee, other than a law enforcement officer, firefighter or air traffic controller, who—

(A) is involuntarily separated except for cause and has not declined a reasonable offer of employment within two grades or pay levels which is within the employee's agency and commuting area, or

(B) is voluntarily separated while serving in a designated geographic area from an agency undergoing a reduction in force or reorganization where a significant percentage of employees are being downgraded or separated, as designated by the Office of Personnel Management (OPM).

Subsection (c) provides for immediate retirement benefits for a military reserve technician who ceases to be a military reserve technician by reason of losing the military status necessary for the position and who is age 50 with 25 years of service.

Section 8415. Computation of basic annuity

This section provides the formulas for computing the annuity an employee or Member is entitled to receive. These formulas do not reflect possible adjustments for election of a survivor annuity or alternative options or for cost-of-living increases.

Subsection (a) gives the basic annuity formula, which is 1 percent of the employee's average pay multiplied by the number of years service, except as provided in subsections (b), (c), (d) and (g).

Subsections (b) and (c) give the special annuity formula of 1.7 percent that applies to a Member or Congressional employee with at least 5 years of service as a Member or Congressional employee with respect to the first 20 years of such service. The 1% formula is applied to years of service in excess of 20 years.

Subsection (d) gives the special annuity formula of 1.7 percent that applies to a law enforcement officer, firefighter or air traffic controller with respect to the first 20 years of service. The 1% formula is applied to years of service in excess of 20 years.

Subsection (e) provides that a year of part-time service will be treated proportionately as a fraction of a year in the annuity formula, with 3-year average pay based on the full-time rate of pay. The Committee intends that an annuity computed under this section accurately reflect the amount of service of an annuitant. The Committee also believes that part-time work should be a viable option for workers reaching or nearing retirement.

Subsection (f)(1) provides that a 5-percent reduction factor applies to voluntary retirement benefits commencing before age 62 under section 8412(g) or 8413(b) for individuals who have attained the minimum retirement age with 10 years of service. Benefits are reduced by 5 percent for each year (five-twelfths of one percent for each month) by which the benefit commencement date precedes age 62. For example, an individual retiring at age 55 is subject to a reduction of 35 percent.

Subsection (f)(2) exempts from the 5% reduction those who become eligible to receive deferred benefits under 8413(b) and who at the date they become eligible to receive such benefits also would meet the age and service requirements for an immediate and unreduced benefit if they were still employed.

Subsection (g) provides an accrual rate of 1.1% for each year of service to employees who retire at age 62 or later with at least 20 years of service. This accrual rate does not apply to Congressional employees, military reserve technicians, law enforcement officers, firefighters, or air traffic controllers.

Section 8416. Survivor reduction for a current spouse

This section sets forth the procedures for a married individual to elect a reduced annuity at retirement so that the surviving spouse may receive benefits after the annuitant's death.

Subsection (a)(1) provides that a married employee or Member who retires is deemed to have elected the reduced annuity specified in section 8419(a) unless both spouses jointly waive the election in writing.

Subsection (a)(2) provides for such a waiver without the spouse's consent if the spouse's whereabouts cannot be determined or if, due to exceptional circumstances, it would be inappropriate to seek the spouse's consent, based on regulations prescribed by OPM.

Subsection (a)(3) provides that a waiver of the survivor election is irrevocable except as provided in subsection (d) regarding retroactive elections during the first 18 months after retirement.

Subsection (b)(1) provides that a married employee or Member who retires and later is remarried may elect a reduced annuity as specified in section 8419(a) within 2 years after the remarriage, or if later, 2 years after the death or remarriage of any former spouse who was entitled to a survivor annuity under section 8445.

Subsection (b)(2) provides that such an election and reduction take effect the first day of the second month after the election is filed with OPM but not less than nine months after the remarriage.

Subsection (b)(3) provides that such an election voids any previous election with respect to an individual who has an insurable interest.

Subsection (b)(4) provides that such an election is not effective if the employee or Member was married to the same spouse at retirement and had previously waived the rights to such a survivor annuity.

Subsection (c)(1) provides that an unmarried individual who retires and later marries may elect a reduced annuity as specified in section 8419(a) within two years after the marriage, or if later, two years after the death or remarriage of any former spouse who was entitled to a survivor annuity under section 8445.

Subsection (c)(2) provides that such an election and reduction take effect nine months after the date of marriage, and void any previous election with respect to an individual who has an insurable interest.

Subsection (d) provides a special retroactive election that is available within 18 months after retirement of a married individual who waived the right to a survivor annuity. The annuitant must make a deposit equal to the payments he or she received in excess of the reduced annuity being elected retroactively, plus interest at six percent per year, and the costs associated with providing for the election. The costs associated with this election must take into account the additional costs of providing a retroactive benefit including any actuarial adjustments. OPM must inform annuitants of any rights they have to make such a retroactive election.

Section 8417. Survivor reduction for a former spouse

This section sets forth the procedures for an individual with a former spouse to elect a reduced annuity at or after retirement so that the former spouse may receive survivor benefits after the annuitant's death.

Subsection (a) provides that an individual with a former spouse who is legally entitled to a survivor annuity as provided in section 8445 will get an annuity reduced as described in section 8419(a).

Subsection (b)(1) provides that any other individual with a former spouse may elect a reduced annuity as described in section 8419(a) to provide the former spouse with rights to survivor benefits.

Subsection (b)(2) provides that such an election must be made at retirement or, if later, within two years after the marriage to the former spouse is dissolved.

Subsection (b)(3) provides that such an election is not effective to the extent that it (A) conflicts with a prior court order, decree or agreement, or would cause the amounts payable to all surviving spouses and former spouses to exceed the usual amount payable to

a surviving spouse, and (B) in the case of a married employee or Member, does not have the consent of the current spouse, except that such consent may be waived for either of the reasons specified in section 8416(a)(2).

Section 8418. Survivor elections; deposit; offsets

Subsection (a) provides that an annuitant making an election of survivor benefits under section 8416(b), 8416(c) or 8417(b), which are subject to a 2-year limit for retroactive election, must make a deposit equal to the excess payments he or she received in excess of the reduced annuity being elected retroactively plus interest at 6 percent per year.

Subsection (b) provides that if the electing individual does not make the deposit, OPM will collect the amount owed by deductions from the annuity, up to a maximum of 25 percent of the net annuity otherwise payable.

Subsection (c) provides that the deposit described in subsections (b) and (c) is not payable if the election replaces a previous election under section 8420 relating to an individual with an insurable interest.

Subsection (d) provides that OPM will prescribe regulations under which the survivor may make the deposit under this section.

Section 8419. Survivor reductions; computation

Subsection (a)(1) provides for a 10-percent reduction in the basic annuity computed under section 8415 or the disability annuity computed under section 8452 if one or more survivor annuities are provided under section 8442 or section 8445 or both.

Subsection (a)(2) provides that if no survivor annuity is provided for the current spouse under section 8442, but one or more survivor annuities are provided for former spouses under section 8445, involving a total amount below the full amount which could be available under section 8445(b)(2), the annuity is reduced by an appropriate percentage which may not exceed a total of 10 percent, based on regulations prescribed by OPM.

Subsection (b) provides for the so-called pop-up feature whereby the reduction in annuity is terminated if the spouse or other individual for whom a survivor annuity was elected loses entitlement because of his or her death or remarriage during the life of the annuitant.

Subsection (b)(1) provides that the annuity reduction on behalf of the current spouse is terminated if the spouse dies or if their marriage is dissolved, except that an appropriate reduction is made thereafter if the spouse becomes entitled to a survivor annuity as a former spouse.

Subsection (b)(2) provides that the annuity reduction on behalf of a former spouse is terminated if the former spouse remarries before age 55 or dies, but that reduction then is replaced by appropriate reductions under subsection (a) if the annuitant has one or more of the following: (A) another former spouse legally entitled to a survivor annuity under section 8445; (B) a current spouse for whom survivor annuity rights were not waived, or for whom a retroactive election was made under section 8416(d); or (C) a current

spouse acquired after retirement for whom an election was made under section 8416 (b) or (c).

Section 8420. Insurable interest reductions

Subsection (a)(1) provides that an employee or Member in good health and retiring other than for disability may name an individual who has an insurable interest in the employee or Member to receive a survivor annuity under section 8444.

Subsection (a)(2) provides that in such a case the annuity is reduced by 10 percent, and by an additional 5 percent for each 5 years by which the named individual is younger than the annuitant, up to a maximum reduction of 40 percent. For example, the 40 percent reduction would apply if the individual were 30 or more years younger than the annuitant.

Subsection (a)(3) provides that the reduction is terminated when the named individual dies.

Subsection (b) provides that a married employee or Member may name his or her spouse under this section only after waiving any right to the surviving spouse annuity available under section 8416(a). This does not apply if there is a former spouse who is entitled to a survivor annuity under section 8445.

Section 8420a. Alternative forms of annuities

Subsection (a) provides that an individual retiring for reasons other than disability may elect some other form of benefit as an alternative to the annuity and survivor benefits available under subchapters II and IV, based on regulations to be issued by OPM.

Subsection (b) provides that OPM may determine which alternative forms of annuity are appropriate and will be offered, except that these must include one form that refunds the individual's contributions in a lump sum and also pays to him or her an actuarially reduced annuity for life from the employer's contributions and interest on the employee's and employer's contributions, and another form that refunds the individual's contributions in a lump sum and also pays to him or her a similarly reduced annuity for life with a survivor annuity benefit payable to the surviving spouse. It is intended that the amount of surviving spouse benefit be in the same proportion to the amount of the annuitant's benefit as if the individual had elected the survivor annuity described in section 8442(a). It is also intended that the required annuity forms described here replicate the life annuity and joint-and-survivor annuity benefits provided for in this chapter except that such benefits will be appropriately reduced to pay for the lump sum credit over the expected future lifetimes.

Subsection (c) provides that each alternative form offered under subsection (b) will have a present value that is actuarially equivalent to the basic annuity computed under section 8415 and, if payable, any annuity supplement provided under section 8421.

Subsection (d)(1) provides that a married employee may not elect an alternative form under this section without a waiver by his or her spouse under section 8416(a).

Subsection (d)(2) provides that an employee with a former spouse may not elect an alternative form under this section if the former

spouse is legally entitled to receive benefits under sections 8445 or 8467.

Subsection (e) provides that a married employee who makes an election under this section may, during the first 18 months after retirement, make the election and deposit described in section 8416(d).

Section 8421. Annuity supplement

This section describes the temporary supplement, payable in certain cases of retirement before age 62, which is primarily intended to make up for the absence of Social Security retirement benefits prior to age 62.

Subsection (a)(1) provides that the supplement is payable to an individual who is under age 62 and is receiving an annuity under section 8412 subsection (a), relating to individuals at the minimum retirement age with 30 years of service, subsection (b), relating to individuals at age 60 with 20 years of service, subsection (d), relating to law enforcement officers or firefighters, subsection (e), relating to air traffic controllers or section 8414(c), relating to military reserve technicians who lose their military status.

Subsection (a)(2) provides that the supplement is payable to an individual who is at least the minimum retirement age specified in section 8412(h), is under age 62 and receiving an annuity under section 8412(f), relating to Members, or under section 8414(a), relating to employees removed from Senior Executive level status because of inadequate performance, or under section 8414(b), relating to early retirement which is fully or partly involuntary.

Subsection (a)(3)(A) provides that those entitled to deferred retirement benefits at age 62 are not entitled to a supplement.

Subsection (a)(3)(B) provides that the supplement ceases upon eligibility for old age benefits under the Social Security Act but in no case later than the last day of the month in which an individual attains age 62.

Subsection (b)(1) provides that the amount of the supplement is equal to the amount described in paragraph (2) multiplied by the fraction described in paragraph (3).

Subsection (b)(2) provides that the amount under this paragraph is the amount of the hypothetical Social Security retirement benefit which would be payable to the individual at age 62 based on earnings during his or her Federal civilian service and deemed earnings before then. Special rules apply in computing this assumed Social Security benefit: (1) the Social Security earnings test is disregarded; (2) the Social Security windfall elimination provision (applicable to persons with pensions based on noncovered employment) is disregarded; (3) the benefit is computed as if the individual were fully insured and attained age 62 on January 1 of the year the annuity begins; (4) the benefit is reduced for early retirement based on the maximum reduction specified in the Social Security Act for an individual born in the same year as the annuitant; and, (5) the computation period ends with the year before the annuity begins (rather than being extended up to age 62). Further, in determining the individual's wages for purposes of computing the Social Security benefit—

(A) for years of service under this plan, only the individual's basic pay is considered to be wages;

(B) for future years the individual is assumed to have no wages; and

(C) for each past year after age 21 in which the individual did not work a full year under this plan, he or she is deemed to have wages in amounts determined by indexing the individual's total basic pay in the first full year of service backward in time so that the deemed wages bear the same relationship to average total wages of all workers as did the individual's basic pay in the first full year of service.

Subsection (b)(3) provides that the fraction under this paragraph is the annuitant's total years of service under this plan divided by 40.

Subsection (b)(4) provides that the terms "benefit computation years" (used to compute the benefit in subsection b(2)) and "average total wages" both have the same meaning they have in the computation of benefits under section 215(b) of the Social Security Act. It further provides that military service is not included in the term "service".

Subsection (c) provides that for purposes of section 8467, relating to certain court orders, the supplement is treated in the same way as a basic annuity computed under section 8415.

Section 8421a. Earnings test

This section subjects the payment of the annuity supplement in most cases to an earnings test similar to the test applied to the payment of Social Security old-age benefits to an individual at age 62.

Subsection (a) provides that the amount of a monthly annuity supplement will be reduced by the excess earnings charged to an individual's supplement for that month.

Subsection (b)(1) and (b)(3) provide that an amount of excess earnings charged to a month will be the amount of such earnings as determined under (b)(2) divided by 12 minus the number of months in the year, if any, after the individual reaches age 62, but not more than the amount of the annuity supplement.

Subsection (b)(2) defines excess earnings to mean 50% of the individual's earnings for the prior year in excess of the annual exempt amount under the Social Security Act for the prior year, limited to the total amount of the annuity supplement for the prior year.

Subsection (b)(4)(A) defines earnings and the applicable annual exempt amount as they are defined in section 203 of the Social Security Act.

Subsection (b)(4)(B) provides that only earnings attributable to periods when the annuity supplement is available are considered for purposes of the reduction. For law enforcement officers, firefighters, air traffic controllers, and military reserve technicians, the earnings test does not apply until they attain the minimum retirement age.

Subsection (c) provides that if an individual has excess earnings still outstanding after the annuity supplement is terminated, the individual's monthly annuity shall be reduced by no more than 25% until such outstanding balance is fully repaid.

Subsection (d) requires OPM to prescribe regulations with respect to reemployed annuitants.

Generally, earnings received in a year when an annuity supplement is payable are used to reduce the annuity supplement the following year. The 1986 annual exempt amount under the Social Security Act for beneficiaries below age 65 is $5,760.00. This amount is indexed for increases in total wages. Earnings in excess of that amount will reduce the supplement by $1 for every $2 earned.

Section 8422. Deductions from pay; contributions for military service

Subsection (a) provides that employees and Members contribute a percentage of basic pay equal to 7 percent, reduced by the employee share of the Social Security payroll tax percentage allocable to OASDI, except that the 7-percent figure is increased to 7.5 percent for a law enforcement officer, firefighter, air traffic controller, Member or Congressional employee.

Subsection (b) provides that employees and Members are deemed to consent to these contributions.

Subsection (c) provides that such contributions become part of the Fund used to finance this plan.

Subsection (d) provides that OPM keeps track of the amounts contributed by each individual.

Subsection (e)(1) provides that an employee or Member with military service after 1956 and prior to separation may pay an amount equal to 3 percent of his or her basic military pay to receive retirement credit for those years. The employee or Member may provide the evidence of military pay, or, if such evidence is not adequate, OPM will use estimates provided under paragraph (4).

Subsection (e)(2) provides that interest is payable on military service deposits at the rates indicated in section 8334(e) if the deposit is made more than 2 years after the later of January 1, 1987, or the date the individual is hired. Deposits made prior to the two-year period are interest-free.

Subsection (e)(3) provides for collection of such deposits.

Subsection (e)(4) provides that OPM will receive any data needed to administer this subsection from the Departments of Defense, Transportation, Commerce or Health and Human Services.

Section 8423. Government contributions

Subsection (a)(1) provides that each agency will contribute to the Fund the normal cost of benefits for that agency's employees. The normal cost is determined by applying a normal cost percentage to the aggregate amount of basic pay. One normal cost percentage is computed for all employees other than certain special classes, and a separate percentage is computed for each of the special classes (Members, Congressional employees, law enforcement officers, firefighters, air traffic controllers and military reserve technicians). In each case, the normal cost percentage is multiplied by the aggregate basic pay of the employees involved. The normal cost amounts for regular employees and special class employees are added together to determine the agency contribution. The normal cost percentage is determined by OPM for all agencies combined, but with separate percentages for regular employees and special classes.

Subsection (a)(2) provides that this normal cost percentage reflects the employer cost, after deducting the employee contributions and deposits described in section 8422.

Subsection (a)(3) indicates the sources of government contributions for various groups that are covered—from salary appropriations or from certain other funds.

Subsection (a)(4) provides for deposit of the contributions into the Fund.

Subsection (b)(1) provides that each fiscal year OPM will compute the supplemental liabilities attributable to employees of the U.S. Postal Service and to non-Postal employees separately.

Subsection (b)(2) provides that these supplemental liabilities will be amortized in 30 equal annual installments.

Subsection (b)(3) provides that each year OPM will notify the Secretary of the Treasury and the Postmaster General of the amount of the annual installment payable by them to amortize the liability.

Subsection (b)(4) provides that the Secretary of the Treasury and the Postmaster General shall pay to the Fund the annual installment due as determined under subsection (b)(3) before the close of each fiscal year.

Subsection (b)(5) provides that OPM may require the Board of Actuaries of the Civil Service Retirement System to make actuarial valuations and determinations, make recommendations, and maintain records in the same manner as provided in section 8347(f), relating to data used in making periodic actuarial valuations of the CSRS. OPM may use the Board of Actuaries' valuations and determinations.

Subsection (c) provides that under regulations prescribed by OPM, the head of an agency may request a reconsideration of the amount of the normal cost and supplementary liability computed by OPM under subsection (a) or (b). The Board of Actuaries of the Civil Service Retirement System shall review the computation and, if appropriate, recompute the amount. The determination of the Board of Actuaries shall be final. The committee intends for the Board of Actuaries to serve in an appeal capacity in this regard.

The Committee intends for OPM to credit the agencies for normal cost and supplemental liability payments from contributions paid under the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983, and from any excess unfunded liability payments made by the Postal Service for pre-1984 employees who transfer to the new plan.

Section 8424. Lump-sum benefits; designation of beneficiary; order of precedence

Subsection (a) provides that an individual may be paid the lump-sum credit attributable to his or her contributions and interest. The individual must be separated from government employment for at least 31 consecutive days or be transferred to a position not subject to this subchapter. He or she must apply to OPM for the refund, and may not receive it if reemployed in a position covered under this subchapter when the application is filed, or if eligible to receive an annuity within 31 days after filing. An individual who receives a payment of this lump-sum credit loses all annuity rights

relating to the service on which the lump-sum credit is based under subchapter II, and under subchapters IV and V relating to survivor or disability benefits, unless the lump-sum credit is made under section 8420a. This loss of annuity rights may not later be regained by depositing the amount of lump-sum payments received.

Subsection (b) provides that payment of the lump-sum credit may be made only after notification to current and former spouses and subject to court orders regarding former spouses that expressly relate to any part of the lump-sum credit. OPM will issue regulations governing situations in which the spouse's or former spouse's whereabouts cannot be determined, or in which OPM receives two or more court orders or decrees that relate to the lump-sum credit.

Subsection (c) provides that an employee or Member or former employee or Member may designate a beneficiary or beneficiaries for purposes of this subchapter.

Subsection (d) provides that lump-sum benefits authorized by subsections (e) through (g) shall be paid to survivors of the employee or Member who are alive when title to the payment arises and provides an order of precedence for such payments.

Subsection (e) provides for the lump-sum credit to be paid if the employee or Member or former employee or Member dies without a survivor or one entitled to a survivor benefit.

Subsection (f) provides that if annuity rights of a deceased employee or Member and any survivors terminate before the total annuity payments equal the total lump-sum credit, the difference shall be paid.

Subsection (g) provides that if an annuitant dies, the accrued and unpaid annuity shall be paid.

Subsection (h) provides that accrued and unpaid annuity on the termination of the annuity or survivor annuity except by death shall be paid to the individual. On the death of a survivor annuitant, accrued and unpaid annuity will be paid first to the executor of the survivor's estate or, if there is no executor, to the survivor's next of kin, as determined by OPM.

Section 8425. Mandatory separation

Subsection (a) provides that an air traffic controller shall be separated from employment at age 56 or after completion of 20 years of service if then over that age. The Secretary of Transportation or the Secretary of Defense, as the case may be, may exempt a controller with exceptional skills and experience until age 61. The Secretary must give each controller at least 60 days written notice of separation unless the controller consents to a shorter period.

Subsection (b) provides that a law enforcement officer or firefighter who is otherwise eligible for immediate retirement under section 8412(d) shall be separated from employment at the attainment of age 55 or after completion of 20 years of service if then over that age. The head of the agency may exempt such an employee from automatic separation until age 60. The employer must give such an employee at least 60 days written notice of separation unless the employee consents to a shorter period.

Subsection (c) provides that the President, by Executive Order, may exempt an employee from automatic separation under this section.

SUBCHAPTER III—THRIFT SAVINGS PLAN

This plan is a tax-deferred savings plan for employees where employee contributions are matched in part by employer contributions. The contributions will be invested in one, two or three funds at the option of employees. A board of trustees will manage the funds. The plan is patterned after those found among large employers in private industry. It includes many features that have proved popular among employees and have achieved excellent investment results at low cost. It is modified as necessary to accommodate a public employee benefit program that must also have broad acceptance among the general public.

Section 8431. Definitions

This section provides for a definition of "basic pay" for purposes of subchapter III which is different from the definition of basic pay found in section 8401. This section defines "basic pay" to mean an employee's basic rate of legally scheduled pay, subject only to the limit in sections 5308 and 5382(b) relating to statutory pay limits on General Schedule pay (Executive Level V) and Senior Executive Service pay (Executive Level IV) but not more than the rate for Level I of the Executive Schedule. This definition provides for employee and employer matching contributions to the Thrift Plan to be based on the scheduled rate of pay not limited by appropriation limitations.

Section 8432. Contributions

Subsection (a) provides for an employee or Member to contribute up to 10 percent of basic pay each pay period in any 6 month period beginning with an open season. It also provides that contributions must be made on a regular pay period basis.

Subsection (b)(1) provides for the Executive Director to prescribe regulations to allow employees or Members a period of time every 6 months to elect to contribute to the plan, to modify the amount to be contributed or to terminate such contributions. It further provides for the amount contributed to be designated by the employee or Member.

Subsection (b)(2)(A) provides that the regulations will prescribe that an employee or Member not previously eligible to make an election shall not become eligible until the second "open season" after the date of employment as an employee or Member, except as provided in (b)(4).

Subsection (b)(2)(B) states that the regulations will provide for an employee or Member appointed or elected to a position or office in the Federal Government following a period of service in which the individual could have participated in the plan may participate notwithstanding any period of separation. This applies to those rehired under FERS with previous service in CSRS.

Subsection (b)(2)(C) provides that the regulations will state that an employee or Member who elects to terminate contributions at times other than during an open season shall not be eligible to make an election to contribute until the second open season after the election to terminate.

Subsection (b)(2)(D) provides that the regulations will allow for an opportunity to terminate at any time other than an open season under paragraph (1).

Subsection (b)(3) provides that an employee or Member who elects to become subject to Chapter 84 may make the first election to contribute to the Thrift Plan during a period of time prescribed by the Executive Director. The election to contribute shall begin on the date on which the election to become subject to Chapter 84 is made. This applies to those transferring to FERS from CSRS.

Subsection (b)(4) provides that an open season for participation will begin on January 1, 1987 for employees and Members who become subject to this plan on that date and who have interim plan service. Contributions will be effective on the first pay period following the open season.

Subsection (c)(1) provides that an employing agency shall contribute an amount equal to 1 percent of basic pay of the employee or Member without regard to whether the employee or Member has elected to contribute, beginning when the employee or Member is first eligible to participate. This agency contribution begins at the end of the pay period that includes the first date of eligibility and at the end of each succeeding pay period.

Subsection (c)(2)(A) provides for the employing agency of an employee or Member who elects to contribute to the Thrift Savings Fund to make contributions on behalf of the employee or Member, in addition to those under paragraph (1), at the end of each pay period.

Subsection (c)(2)(B) provides for the employing agency to match dollar for dollar the employee's or Member's contribution up to and including 3 percent of basic pay and to contribute one-half of the amount of the employee's or Member's contribution which exceeds 3 percent but not 5 percent of basic pay for each pay period.

Subsection (c)(3)(A) provides for a contribution to the Thrift Savings Fund on behalf of an employee or Member for service under the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983.

Subsection (c)(3)(B) provides that an individual described in subparagraph (A) is an employee or Member who is such on January 1, 1987, who has creditable service described in section 8411(b)(2) and who has not received a refund of the retirement deductions made under section 204 of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 (the interim plan.)

Subsection (c)(3)(C) provides for the amount referred to in subparagraph (A) to equal one percent of total basic pay for service described in section 8411(b)(2) plus interest computed as provided in paragraphs (2) and (3) of section 8334(e). In other words, such employees or Members will be treated as if they were covered under this plan from their date of coverage under the interim plan, for the purpose of the 1% contribution.

Subsection (c)(3)(D) provides for the Secretary of the Treasury to credit the Thrift Savings Fund out of the Treasury the amounts required to carry out paragraph (1).

Subsection (d) provides that total contributions made to the Thrift Plan in any year may not exceed the limits specified under

section 415 of the Internal Revenue Code of 1954, relating to maximum amounts contributed by the employer and employee.

Subsection (e) provides that the matching employing agency contributions shall be paid from salary appropriations or certain other Funds.

Subsection (f) provides for the Comptroller General of the United States in consultation with the Executive Director to prescribe procedures for crediting employee or Member accounts with employee or Member contributions and employing agency contributions. This is simply an accounting and auditing procedure.

Subsection (g)(1) provides that contributions made to the Thrift Savings Plan are nonforfeitable except for employees or Members who do not meet minimum service requirements as specified in paragraphs (2) and (3).

Subsection (g)(2) provides that the 1% contribution made by the employer under subsection (c)(1) plus earnings attributable to such contribution shall be forfeited if the employee separates from Government employment before completing—

(A) 2 years of service in the case of a noncareer appointee in the Senior Executive Service, certain individuals in Executive Schedule positions or other political appointees; or

(B) 3 years of service for other employees.

Subsection (g)(3) provides that the 1% contribution made on behalf of Members or Congressional employees plus earnings attributable to such contributions shall be forfeited if a Member or Congressional employee separates before completing 2 years of service.

Subsection (h) provides that no transfers can be made to the Thrift Savings Fund from any pension, profit sharing, or stock-bonus plan qualifying under section 401 of the Internal Revenue Code.

Section 8433. Benefits and election of benefits

This section specifies the options a participant has with respect to his or her account upon leaving Government employment. The options available depend on the participant's retirement status under the basic annuity plan set forth in subchapter II.

Subsection (a) provides that an employee or Member who separates from Government employment in entitled to the amount of the balance in the Thrift Savings Fund is the manner provided in this section except for any amount forfeited under section 8432(g).

Subsection (b) states that subject to section 8435 an employee or Member entitled to an immediate annuity under the basic plan, a benefit recipient under chapter 81 of this title relating to Workers' Compensation, or an employee or Member entitled to disability benefits from this plan has four options under the thrift plan:

(1) an immediate annuity,

(2) a deferred annuity, but deferred no later than April 1 of the year following the year when the employee or Member becomes 70½ years old,

(3) withdrawal of the thrift plan funds in one or more payments, before April 1 of the year following the year when the employee or Member becomes 70½ years old, or

(4) transfer of the funds to a plan qualifying under section 402(a)(5) of the Internal Revenue Code, such as an IRA.

Subsection (c) states that subject to section 8435 an employee or Member who separates from government employment entitled to a deferred annuity under the basic plan has four options under the thrift plan:

(1) an immediate annuity,

(2) a deferred annuity, commencing at a date specified by the employee or Member; but not later than April 1 of the year following the year in which the employee or Member becomes 70½ years old,

(3) withdrawal of the thrift plan funds in one or more payments, commencing on or after the date the employee first could receive an annuity under the basic plan and ending not later than April 1 of the year following the year in which the employee or Member becomes 70½ years old, or

(4) transfer of the funds to a qualified plan, such as an IRA.

Subsection (d) provides that subject to section 8435 an employee or Member who separates from Government employment before becoming entitled to a deferred annuity shall transfer the funds to a qualified plan, such as an IRA.

Subsection (e)(1) provides for the Executive Director to make transfers under subsections (b)(4), (c)(4) or (d) directly to an eligible plan(s) (as defined in section 402(a)(5)(E) of the Internal Revenue Code) identified by the employee, Member or former employee or Member.

Subsection (e)(2) provides that a transfer may not be made until the Executive Director receives information from the individual necessary to accurately identify the plan.

Subsection (f)(1) provides that an employee or Member may change an election previously made under this subchapter subject to certain requirements.

Subsection (f)(2) provides that a former employee or Member may modify the date made in a previous election subject to paragraph (3)(B) and to section 8435(d) relating to protections for spouses and former spouses.

Subsection (f)(3)(A) provides that a former employee or Member may not change an election under this section on or after the date on which a payment is made or on which an annuity commences.

Subsection (f)(3)(B) provides that the modification of a date under paragraph (2) may not be made on or after such date and may not specify a date for an annuity to begin earlier than 1 month after the date the change is filed with the Executive Director.

Subsection (g) provides that in the case of an employee or Member (or former employee or Member) who dies without having made an election, the amount in that individual's account shall be paid as provided in section 8424(d), subject to any decree, order or agreement referred to in section 8435(d)(2).

Subsection (h) provides for annuity payments under this chapter to begin automatically, unless otherwise elected, on February 1 of the year following the latest of the year in which the employee, Member, former employee, or former Member—

(1) becomes age 65;

(2) attains the tenth anniversary of coverage under this subchapter; or

(3) separates from Government employment.

Subsection (i)(1) provides that an employee or Member after December 31, 1987, may apply to borrow from that individual's account an amount not exceeding the value of the employee or Member's contributions.

Subsection (i)(2) provides that loans shall be approved for purchase of a primary residence, educational expenses, medical expenses or financial hardship.

Subsection (i)(3) provides that loan provisions shall be consistent with section 408(b)(1) of the Employee Retirement Income Security Act of 1974 which requires, among other things, that the loans be secured.

Subsection (i)(4) provides that loans which would be considered a taxable distribution under section 72(p) of the Internal Revenue Code may not be made from the Thrift Fund.

Subsection (i)(5) provides that loans may not be made unless the requirements of section 8435(f) concerning notification of a spouse are met.

Section 8434. Annuities: methods of payment; election; purchase

Subsection (a)(1) provides that the Board which administers the Thrift Plan will prescribe methods of payment of annuities.

Subsection (a)(2) provides that the Board will provide that annuity payments may be made under at least the following five methods:

(A) payable to the annuitant for life in a level monthly amount,

(B) payable to the annuitant and spouse while both are alive in a level monthly amount, and to the survivor for life in an appropriate amount,

(C) payable as in method (A) but with annual increases,

(D) payable as in method (B) but with annual increases, and

(E) payable to the annuitant during the joint lifetime of the annuitant and a designated individual who is a former spouse, or has an insurable interest in the annuitant's life, and to the survivor for life.

Subsection (b) provides that an employee, Member, former employee or former Member electing to receive an annuity from the thrift plan must elect one of the methods specified in subsection (a) before the date the annuity is to begin.

Subsection (c) provides that if the Board eliminates a method of payment from the Thrift Fund, an employee, Member, former employee, or former Member who is entitled to an immediate annuity not reduced under section 8415(f) may elect the eliminated method if the elimination became effective less than 5 years before the annuity begins. It also provides that any other employee, Member, former employee or former Member may elect such method of payment for amounts contributed before the effective date of the change plus earnings attributable to such amount.

Subsection (d) provides for the Executive Director to spend the balance in an annuitant's account to purchase an annuity contract from an insurance company at the time an annuity is to begin. The

Executive Director shall assure through contract that the annuity meets the requirements of this subchapter and subchapter VII. The Executive Director will include contract terms to ensure financial protection of the annuitant and will require from each entity from which an annuity contract is purchased a bond or proof of financial responsibility.

Section 8435. Protection for spouses and former spouses

Subsection (a)(1) provides that a married employee or Member (or former employee or Member) may elect to withdraw sums from the Thrift Fund or transfer sums to another qualified plan or to change a previous election for an immediate or deferred annuity only if such individual and such individual's spouse jointly waive in writing any right the spouse may have to a survivor annuity. Such a waiver shall be irrevocable.

Subsection (a)(2) provides that the waiver requirement shall not apply when the spouse's whereabouts cannot be determined and in other exceptional circumstances.

Subsection (b) provides that transfer of contributions to another qualified plan for an employee or Member who separates from Government employment before becoming entitled to an annuity may be made only after notification to any current spouse and each former spouse.

Subsection (c)(1) provides that, for an employee, Member, former employee, or former Member who is married on the date the annuity begins under this subchapter, the joint-and-survivor annuity shall be deemed the applicable method for payment of a survivor annuity to a spouse.

Subsection (c)(2) provides for exceptions to paragraph (1) for an employee or Member separating on immediate, early or disability retirement if there is a joint written waiver by the employee or Member and the spouse or if circumstances exist that make a joint waiver inappropriate. It also provides exceptions for an employee or Member separating in non-retirement cases to waive such method after notifying the spouse of intent to waive or establishing that the spouse's whereabouts cannot be determined.

Subsection (d)(1) provides that an election, change of election or modification of the commencement date of a deferred annuity shall not be effective and a transfer of contributions to another qualified plan may not be made to the extent that it conflicts with any court decree, order, or agreement as described in paragraph 2.

Subsection (d)(2) provides that a court decree, order, or agreement is effective with respect to paragraph (1) if it was issued with respect to a former spouse or if it is a court order or approved property settlement that (A) is related to any portion of the employee's or Member's Thrift Fund balance and (B) was received before the date payment is made or the annuity commences.

Subsection (d)(3) provides for the Executive Director to prescribe regulations for cases in which two or more decrees, orders or agreements are received.

Subsection (e)(1) provides for payment of benefits to a former spouse of a deceased employee or Member or deceased former employee or Member who had at least 18 months of service or was entitled to an immediate or deferred annuity under subchapter II if

the benefits were expressly provided by an election under section 8434(a)(2)(E) or a court decree, order or agreement which relates to such deceased individual and former spouse and subject to paragraphs (2) through (7).

Subsection (e)(2) provides that paragraph (1) applies only to payments made by the Executive Director after the date the written notice of the decree, order or agreement is received.

Subsection (e)(3) provides that the amount of a survivor annuity payable to a former spouse may not exceed the amount of a survivor annuity computed under subsection (c)(1) (50 percent of the basic annuity payable to the employee or Member) less the amount of basic survivor annuities payable to any other former spouses who have a higher priority based on the order of precedence set forth in paragraph (4).

Subsection (e)(4) provides that the limitations on amounts of beneftis in paragraph (3) are implemented in the order of preference by the chronological order of the dates of election or court order.

Subsection (e)(5) provides that sections 8445 (c) and (d) shall apply to an entitlement of a former spouse to a survivor annuity under this subsection.

Subsection (e)(6) provides that a court order or decree is not effective if it is inconsistent with a joint waiver of rights to survivor benefits executed earlier.

Subsection (e)(7) provides that payment of benefits under this section to one person bars recovery by any other person for the same benefit.

Subsection (f)(1) provides that a loan to a married employee or Member from the Thrift Savings Fund under section 8433(i) requires written consent from the individual's spouse. The written consent is irrevocable with respect to the loan to which it relates. Written consent is not required when a spouse's whereabouts cannot be determined or in other exceptional circumstances.

Subsection (f)(2) provides that an application for a loan from the Thrift Savings Fund under section 8433(i) shall not be approved if it would be inconsistent with a court order or decree as described in subsection (d)(1).

Subsection (g) provides for the Executive Director to prescribe procedures for the waivers and notifications required by this section.

Subsection (h) provides that the protections for spouses and former spouses in this section are in addition to those provided in section 8467 relating to court orders.

Section 8436. Administrative provisions

The Executive Director will arrange for payout of thrift plan benefits and will issue regulations giving the procedures for electing to receive benefits.

Section 8437. Thrift Savings Fund

Subsection (a) establishes a Thrift Savings Fund in the Treasury of the United States.

Subsection (b) states that the Thrift Savings Fund contains all the contributions plus the net earnings or minus the net losses

from investment of the contributions, reduced by payouts and administrative expenses from the Fund.

Subsection (c) makes the Thrift Savings Fund available for thrift plan purposes—to invest, pay benefits or purchase annuity contracts, pay administrative expenses, make distributions, make loans to employees and Members, and purchase insurance as provided in section 8479(b)(2).

Subsection (d) provides that administrative expenses of the Thrift Savings Plan are to be paid first out of Thrift Fund money forfeited under section 8432(g) and then out of net earnings based on employer contributions under section 8432(c).

Subsection (e) provides that sums in the Thrift Fund credited to the account of an employee, Member, former employee or former Member may not be used for any purposes other than the benefit of such individuals or their beneficiaries. It also provides that except as otherwise provided by Federal law, sums in the Thrift Savings Fund may not be assigned and are not subject to legal process, except for amounts being paid to individuals who legally owe payments for child support or alimony. A loan to an employee or Member is not considered to be an assignment or alienation.

Subsection (f) states that the Thrift Savings Fund may be used only for the purposes specified in this section.

Subsection (g) provides that all contributions to be Thrift Savings Fund by an employee or Member or by an employing agency on behalf of an employee or member and all net earnings attributable to investment of such sums are held in trust for such employee or Member.

Section 8438. Investment of Thrift Savings Fund

This section specifies how the thrift plan funds are invested, as designated by individual participants with respect to funds held on their behalf, subject to certain restrictions during the plan's first 10 years. The investments are patterned after those which have proven successful in private plans in recent years, offering employees a carefully selected and limited choice of investments either within the Government or in the private sector, and in either fixed income or equity (common stock) investments.

Because this is a Government plan, and so must have broad acceptance among the general public as well as employees, the private-sector investment options are designed to minimize decision-making by the Government that might not allow private investment markets to maintain their stability and objectivity.

The fixed income investments are intended to be highly secure debt instruments which guarantee a specified rate of return. The equity investments use a common stock index fund, which provides automatically for changing conditions and securities prices. Index funds are widely used in private plans because of their simplicity, very low administrative costs and proven ability to provide good investment results.

By offering only a few alternative choices of investment funds, just as private plans do, this plan uses its size and mass purchasing power to make the funds available for investment work harder and more efficiently than is otherwise possible, and avoids turning the

workplace into a marketplace where numerous promoters would contact employees to sell them investment products.

Subsection (a) defines terms relating to thrift plan investments:

(1) The "Common Stock Index Investment Fund" is one of the three optional investment funds established under this section, providing for common stock investments that are allocated among stocks in proportion to a predetermined index.

(2) The term "equity capital" is defined for use in specifying minimum size requirements for certain asset managers.

(3) The "Fixed Income Investment Fund" is another of the three optional investment funds established under this section, providing for fixed-income investments in the private sector.

(4) The "Government Securities Investment Fund" is another of the three optional investment funds established under this section, providing for investment in Government securities whose interest rates are tied to the average rate of long-term Government securities.

(5) The term "net worth" is defined for use in specifying minimum size requirements for certain asset managers.

(6) The term "plan" means an employee benefit plan, as defined in the Employee Retirement Income Security Act of 1974 (ERISA).

(7) The term "qualified professional asset manager" is defined as in regulations of the Department of Labor under ERISA, and includes an entity that can legally serve an employee benefit plan and that meets minimum size requirements, in any of four classes—

(A) a bank,

(B) a federally insured savings & loan association,

(C) a State-licensed insurance company, or

(D) a federally registered investment advisor.

(8) The term "shareholder's or partner's equity" is defined for use in specifying minimum size requirements for certain asset managers.

Subsection (b)(1) provides that the Board administering the plan will establish three alternative funds for investment of thrift plan funds—

(A) the Government Securities Investment Fund, invested in U.S. Government securities;

(B) the Fixed Income Investment Fund, invested in guaranteed investment contracts, certificates of deposit or other securities selected by qualified professional asset managers, which guarantee the return of principal plus a specified rate or rates of interest over a specified period of time;

(C) the Common Stock Index Investment Fund, invested in common stocks according to an index as specified in paragraph (2).

Subsection (b)(2)(A) describes the operation of the Common Stock Index Fund. The Board will select an index representing a broad cross-section of the stock market. The index will be a commonly recognized index comprising common stock which has an aggregate market value that is reasonably representative of the U.S. equity markets as a whole.

Subsection (b)(2)(B) provides for the Common Stock Index Investment Fund to be invested in a portfolio designed to replicate the performance of the index selected under subparagraph (A). To the extent practicable, the portfolio should be designed such that the percentage of the fund invested in a given stock is equal to the percentage of the index represented by that stock as computed from the aggregate market values of the respective stocks.

Subsection (c) provides that the Executive Director shall invest monies in the three funds as directed by employees and Members except for the limitations during the plan's first 10 years. Monies not elected for investment by employees or Members will be invested in the Government Securities Fund.

Subsection (d) provides for the Executive Director to prescribe regulations to enable employees or Members to elect the funds in which to invest or reinvest sums at least twice a year subject to the restrictions in subsection (e).

Subsection (e) describes the limitations on thrift plan investments during the plan's first 10 years, intended to avoid sudden administrative, financial, or budgetary impacts. During these years a certain minimum percentage of the contributions to an employee's, Member's, former employee's, or former Member's account must go to the Government Securities Investment Fund—

Calendar year	Minimum percentage of contributions that go into government securities	
	Employee contributions	Employer contributions
1987	100	100
1988	80	100
1989	60	100
1990	40	100
1991	20	100
1992	0	100
1993	0	80
1994	0	60
1995	0	40
1996	0	20

The employer contributions include those made under section 8432(c): the initial 1 percent, regardless of employee or Member contribution; the matching contribution up to 5 percent of basic pay; and the 1-percent contribution for service under the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983. Amounts allocated to the Government Securities Investment Fund in accordance with these limits or interest earned on such amounts must be reinvested in such fund, until 1992 with respect to investments of employee contributions and until 1997 with respect to investments of employer contributions.

Subsection (f) provides that the Secretary of the Treasury is authorized to issue special interest-bearing obligations of the United States for purchase by the Thrift Savings Fund for the Government Securities Investment Fund. Maturities will be fixed with due regard for the needs of the Fund. Interest will be paid at average

market rate, computed by the Secretary of the Treasury on the basis of market quotations as of the end of the month preceding the date of issue, on all marketable interest-bearing obligations then forming a part of the public debt which are not due or callable for 4 years. Such average market yield shall be rounded to the nearest multiple of one-eighth of 1 percent.

This arrangement ensures that the fund will receive yields associated with long-term bonds but will not be tied down with bonds having inappropriate maturity dates. Investing the money in special issues rather than marketable securities keeps the funds on budget.

Subsection (g) prohibits the Board, other Government agencies, the Executive Director, an employee or Member, and a former employee or Member from exercising voting rights associated with ownership of securities in the Thrift Fund. It is inappropriate for the Federal government or its employees to vote these securities.

Section 8439. Accounting and information

Subsection (a) provides that an account is maintained for each individual for whom contributions are made under section 8432(c)(1) or who makes contributions to the Thrift Savings Fund under section 8351. These funds are derived from contributions to the thrift plan by the employee and employer, reduced by amounts paid out as permitted by the plan. Each account is also credited with a proper share of the net investment earnings and losses, and is reduced by its share of the administrative expenses incurred under subchapter VII and allocated under section 8437(d). An individual's account will be increased or reduced by investment performance in the funds in which the individual participates reduced by a prorata share of any allocable administrative expenses.

Subsection (b) provides that the individual accounts and the other books and records of the plan are audited annually by a qualified public accountant, with the accountant providing a written report and determination to the Board and the General Accounting Office regarding the audit using the same standards that apply to audits under ERISA.

Subsection (c) provides for the Board to prescribe regulations furnishing each employee or Member for whom an account is maintained with a periodic statement of the account and a summary and evaluation of each investment option covering the prior 5-year period. Such information shall be provided at least 30 days before the semiannual open season periods.

Subsection (d) provides that an employee or Member must sign an acknowledgment when investing in funds other than the Government Securities Fund that the individual understands that the investment is made at the employee's or Member's risk and that returns on the other funds are not federally guaranteed.

Section 8440. Tax treatment of the Thrift Savings Fund

Section 8440 provides that the thrift savings fund established by the conference agreement is a tax-qualified trust subject to the rules established in section 401(a) and other sections of the Internal Revenue Code. Therefore, amounts deferred into the fund by employees, and the matching amounts contributed by the government,

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as well as the investment income accruing to those amounts while in the fund, are exempt from income taxation until distribution to the employee. (These amounts may be rolled over to an IRA upon termination of employment or distributed as an annuity.) This plan is subject to the non-discrimination and maximum contribution rules applicable to similar plans in the private sector, and will be subject to whatever changes in those requirements (including dollar limits on the total amount of deferrals) are made in future tax legislation. (In this connection, the thrift plan is not subject to SEC disclosure requirements because of the exemption set forth in section 3(a)(2) of the Securities Act of 1933, relating to section 401(a)-qualified plans.)

For purposes of the test applied under IRS nondiscrimination rules and other such rules, participants in the thrift plan covered by CSRS and those covered by FERS must be treated as being under separate plans. Because the participation and matching levels and investment alternatives are so different between the two groups, limitations on deferred income could be badly skewed if the two groups were combined for purposes of such tests.

If in any year, the plan would otherwise fail to meet any of these requirements (for example, if in one year the amount deferred by higher-wage employees would violate the non-discrimination tests), the plan will be able to maintain its qualification by distributing the excess contributions back to those higher-earning employees to the extent necessary to meet the requirements. Finally, as is the case for such plans in the private sector, amounts of wages deferred by employees into this plan will still be subject to Social Security payroll taxes, even though they are exempt from current income tax.

SUBCHAPTER IV—SURVIVOR ANNUITIES

Section 8441. Definitions

Paragraph (1) defines "widow" as the surviving wife of an employee, Member, or annuitant, or of a former employee or Member, who was married to him for at least 9 months immediately before his death or is the mother of issue by that marriage.

Paragraph (2) defines "widower" as the surviving husband of an employee, Member, or annuitant, or of a former employee or Member, who was married to her for at least 9 months immediately before her death or is the father of issue by that marriage.

Paragraph (3) defines "dependent", in the case of any child, to mean that the employee, Member, or annuitant was, at the time of death, either living with or contributing to the support of such child, as determined by OPM regulations.

Paragraph (4) defines "child" as—

> (A) an unmarried dependent child under 18 years of age, including an adopted child, a stepchild who lived with the deceased individual in a regular parent-child relationship, and a child for whom an adoption petition was pending and who is adopted by the widow or widower after the death of the employee, Member, or annuitant;

(B) such unmarried dependent child regardless of age who is incapable of self-support due to mental or physical disability before age 18; or

(C) such unmarried dependent child between age 18 and 22 who is a student regularly pursuing a full-time course of study or training in residence in one of several types of prescribed educational institutions.

A child whose 22nd birthday occurs before July 1 or after August 31 is deemed to be aged 22 on the first day of July after his or her 22nd birthday. Student status is retained during a break of up of 5 months between school years if satisfactory intent to continue studies can be shown.

Section 8442. Rights of a widow or widower

Subsection (a) provides that the widow or widower of an annuitant, except as provided in subsection (g) concerning disability annuitants, is automatically entitled to an annuity equal to 50 percent of the unreduced annuity paid to the annuitant, unless the entitlement was previously waived (and the waiver was not subsequently nullified) or in the case of marriage after retirement, the annuitant did not elect to provide such an annuity. A spouse acquired after retirement may elect to receive a survivor annuity or a lump-sum benefit.

Subsection (b)(1) provides that the widow or widower of an employee or Member who dies after completing at least 18 months of creditable civilian service is entitled to—

(A) an amount equal to one-half of final pay (or average pay, if higher) plus $15,000 (adjusted for increases in the cost of living under section 8462(e)) and

(B) an annuity equal to 50 percent of the annuity computed for the employee or Member if such employee or Member had at least 10 years of service, without reduction as specified in section 8415(f) relating to payment before the deceased individual's age 62.

Subsection (b)(2) requires OPM to prescribe regulations under which the total amount payable under (b)(1)(A) may, at the election of the widow or widower, be paid in a lump-sum or on a monthly basis over a period of 3 years or any other period established under the regulations. All forms of payment must be actuarially equivalent to a lump-sum payment.

Subsection (b)(3) states that an amount payable under subsection (b)(1)(A) as a lump sum or on a monthly basis is not considered to be part of any annuity for purposes of this chapter.

Subsection (c)(1) provides for payment of a benefit to the widow or widower of a former employee or Member eligible for a deferred annuity that has not yet commenced. The widow or widower may elect to receive an annuity or the lump-sum credit.

Subsection (c)(2)(A) provides that the annuity is equal to 50 percent of the annuity computed for the former employee or Member as if death had occurred on the date of attaining the applicable minimum retirement age under section 8412(h) in the case of a former employee or Member who dies before reaching the applicable minimum retirement age.

Subsection (c)(2)(B) provides that the annuity of a widow or widower of a former employee or Member commences on the day after the date the former employee or Member would have become 62 or, if elected by the widow or widower, as of the day after death of the former employee or Member. If a survivor annuity is chosen as of the day after death, the annuity must be actuarially equivalent to the annuity receivable when the former employee or Member would have become 62.

Subsection (c)(3) states that paragraphs (1) and (2) apply only to an employee or Member who completes at least 10 years' service. It further states that the provisions in this subsection do not affect the provisions relating to lump-sum credit for a widow or widower of a former employee or Member with less than 10 years' service.

Subsection (d) provides that the survivor annuity commences on the day after the death of the individual and terminates on the last day of the month before the widow or widower remarries before becoming age 55 or dies. In the case of a remarriage which is later dissolved, the annuity is restored at the same rate commencing the day the remarriage is dissolved, providing the widow or widower elects to receive this annuity and any lump sum paid on termination of the annuity is returned to the Fund.

Subsection (e) provides that the 9-month marriage requirement is deemed satisfied if death was accidental or the surviving spouse had previously been married to the individual and the aggregate time married is at least 9 months.

Subsection (f)(1) provides that subject to paragraph (4), the survivor of an annuitant is also entitled to receive a supplementary annuity payment.

Subsection (f)(2) states that the supplementary annuity is the lesser of—

(A) the amount by which the survivor's assumed CSRS annuity exceeds the annuity payable under subsection (a); or

(B) the amount determined under paragraph (3).

Subsection (f)(3) requires a computation of a widow's or widower's insurance benefits under OASDI as of the date of death based on the deceased annuitant's wages during Federal civilian employment and deemed wages before then (as provided by section 8421(b)(2)), computed as if the survivor were age 60 on that date. In computing this OASDI benefit, the Social Security earnings test, maximum family benefit and government pension offset provisions are disregarded.

Subsection (f)(4) prohibits payment of the annuity supplement as follows:

(A) after the month the survivor first satisfies minimum age requirements of the Social Security Act;

(B) to survivors who would not be entitled to benefits under Social Security based on wages of the deceased annuitant; and

(C) to survivors who are entitled to benefits relating to mother's and father's insurance or disability under Social Security based on wages of the deceased annuitant.

Subsection (f)(5) defines "assumed CSRS annuity" for purposes of this subsection as the amount of the annuity which would be payable to a survivor under subchapter III of chapter 83 based on service of the deceased annuitant determined as of the day after the

date of death, as if service of the deceased annuitant were creditable under such subchapter and as if the survivor had applied for such benefits.

Subsection (f)(6) provides for an adjustment of the annuity supplement under the rules applicable to the cost-of-living adjustment for the basic survivor annuity.

Subsection (g)(1) provides that the annuity of the widow or widower of a disability annuitant shall equal 50 percent of the amount determined under paragraph (2) rather than the amount specified in subsection (a).

Subsection (g)(2)(A) states that, except as provided in subparagraph (B), the annuity of the widow or widower of a disability annuitant is based on the amount of the annuity to which the disability annuitant was entitled computed under section 8452, including appropriate reductions for the assumed Social Security disability benefits and cost-of-living adjustments, as of the day before the disability annuitant's death.

Subsection (g)(2)(B) provides that the amount of the annuity of a widow or widower of a disability annuitant who dies before age 62 shall be computed as if the disability annuitant had become 62 the day before death and thus have the disability annuity redetermined under section 8452(b). It also states that in the computation under section 8452(b)(2) creditable service includes the period of time between the date of death and the date of the 62nd birthday and that average pay is adjusted only through the date of death.

Subsection (h) limits the annuity to the difference between the annuity otherwise payable and the amount of the annuity payable to a former spouse, based on an election or a court order. This limit also applies to the death benefit payable for preretirement death under subsection (b)(1)(A).

Section 8443. Rights of a child

Subsection (a) provides that a surviving child of an employee, Member, or annuitant with at least 18 months of creditable civilian service is entitled to an annuity. The annuity will equal the total amount a child or children would receive under chapter 83 in excess of the total amount of child's insurance benefits payable under the Social Security Act divided by the number of children entitled to a benefit under this section. It is intended for this purpose that the Social Security child's benefit is deemed to be payable in full without regard to possible reduction because of the Social Security earnings test, using the same principle of an assumed Social Security benefit as for widows and widowers under section 8442(f)(3).

Subsection (b) provides that the child's annuity commences the day after death of the annuitant or, in the case of a child incapable of self-support or a student, the date when the student meets or again meets the definition for a child incapable of self-support or for a student. The annuity terminates when the child becomes 18, becomes capable of self-support after 18, becomes 22 while a student, ceases to be a student after 18, or dies or marries. The annuity is recomputed if a related individual's survivor annuity terminates.

Section 8444. Rights of a named individual with an insurable interest

The annuity for a survivor with an insurable interest is 55 percent of the reduced annuity of the retired employee or Member. The annuity commences on the day after the retired employee or Member dies and terminates on the last day of the month before the survivor dies.

Section 8445. Rights of a former spouse

Subsection (a) provides that a former spouse of a deceased employee, Member, annuitant, or deferred vested individual is entitled to an annuity to the extent provided for in an election by the deceased individual or in the terms of a decree or court order relating to a property settlement agreement.

Subsection (b) provides that the amount of the annuity to a former spouse may not exceed 50 percent of the basic annuity less the survivor annuity amount(s) payable to any other former spouse(s).

Subsection (c) provides that commencement and termination of annuities to former spouses of deceased individuals are governed by the applicable order, decree, agreement, or election, except that such annuities cannot begin before the death of the entitled individual or the first day of the second month after the date OPM receives written notice of the order, decree, agreement, or election, whichever is later, and shall terminate on death or remarriage before age 55.

Subsection (d) provides that a modification in a decree, order, agreement, or election shall not be effective if made after the retirement or death of the employee, Member, annuitant, or deferred vested individual and to the extent the modification involves an annuity for a former spouse.

Subsection (e) provides that a decree, order, agreement, or election shall not be effective, in the case of a former spouse, to the extent it is inconsistent with any joint waiver previously executed with respect to such former spouse.

Subsection (f) provides that the preretirement death benefit payable to a widow or widower under section 8442(b)(1)(A) shall be paid to a former spouse if a decree or court order expressly provides for this.

Subsection (g) provides that payment of benefits under this section to one person bars recovery by any other person for the same benefit.

SUBCHAPTER V—DISABILITY BENEFITS

Section 8451. Disability retirement

Subsection (a)(1) provides that an employee who completes at least 18 months of creditable civilian service and has become disabled shall be retired on the employee's or the employer's application. The employee is considered disabled only if unable, because of disease or injury, to render useful and efficient service in the employee's position.

Subsection (a)(2)(A) denies an annuity to an employee who declines a reasonable offer of reassignment to a vacant position in the agency for which the employee is qualified if the position is at the same grade or pay level, is within the commuting area, and is one in which the employee would be able to render useful and efficient service.

Subsection (a)(2)(B) requires disability retirement applicants to be considered for reassignment by the employee's agency in accordance with procedures prescribed by OPM regulation.

Subsection (a)(2)(C) provides that the applicant is entitled to appeal to the Merit Systems Protection Board a determination of ability to perform the work required in the position described in paragraph (A).

Subsection (a)(2)(D) provides that in determining a reasonable offer, an employee of the United States Postal Service shall not be considered qualified for a position if it is in a different craft or if reassignment would be inconsistent with the terms of a collective bargaining agreement covering the employee.

Subsection (b) provides that a Member who completes at least 18 months of service as a Member and is found by OPM to be disabled for useful and efficient service as a Member because of disease or injury shall be retired on the Member's own application.

Subsection (c) provides that a disability retirement annuity is computed under section 8452.

Section 8452. Computation of disability annuity

Subsection (a) describes how to compute a disability retirement annuity for an individual who is below age 62, except as provided in subsections (c) and (d). The disabled individual gets a basic disability benefit amount, subject to an offset if he or she is entitled to a Social Security disability benefit.

Subsection (a)(1) describes how to compute the basic disability benefit before deducting any offset that may apply. In the first 12 months after disability commences, the basic benefit is 60 percent of average pay, and thereafter is 40 percent of average pay. During these first 12 months only, the basic disability benefit is not subject to the cost-of-living adjustment (COLA) provisions of section 8462.

Paragraph (a)(2) describes how to compute the Social Security offset to the basic disability benefit for an individual who is entitled to receive a disability benefit under section 223 of the Social Security Act. In the first 12 months after disability commences, the offset is 100 percent of an assumed Social Security disability benefit, and thereafter is 60 percent of an assumed Social Security disability benefit. For this purpose, the assumed Social Security disability benefit for any month is the amount to which the individual would be entitled for the month in which the annuity under this chapter commenced, adjusted by the total percentage of any COLAs under section 8462(b) between the date on which the annuity commenced and the start of the month involved, without regard to whether the basic annuity was affected by such an adjustment. In computing the assumed Social Security disability benefit, for purposes of the so-called megacap provisions of section 224 of the Social Security Act any offset of the disability annuity under section 8452(a)(2) is disregarded.

Subsection (b) provides for a recomputation of the annuity under the basic annuity formula when the annuitant reaches age 62. The annuitant is given credit for years of disability as creditable service in the basic annuity formula, and average pay in the basic annuity formula is adjusted by cost-of-living increases under section 8462(b). The recomputed annuity is the lesser of the amount computed under the basic annuity formula or the disability benefit determined under the formula applicable when Social Security disability insurance benefits are payable, regardless of whether or not the annuitant was receiving Social Security disability benefits.

Subsection (c) provides that a worker who becomes disabled after satisfaction of the age and service requirements for an annuity under section 8412 (with the exception of subsection (g)) or after age 62 (even if creditable service is less than 5 years) shall have his or her disability benefit computed under the basic annuity formula.

Subsection (d) provides that a disability annuitant will not receive less than the accrued annuity as computed under Section 8415, excluding the reduced early retirement provisions of Section 8415(f).

Section 8453. Application

A claim for disability benefits must be filed before the employee or Member separates from employment by the Government or within 1 year after such date. This time limitation may be waived by OPM if it is determined that the individual was mentally incompetent during that period and the application for benefits is filed within 1 year after the participant is restored to mental competency or the date a fiduciary is appointed to manage the participant's financial affairs, whichever date is earlier.

Section 8454. Medical examination

An annuitant receiving a disability retirement annuity from the Fund shall be examined under OPM's direction at the end of 1 year from the date of the disability retirement and annually thereafter until age 60, unless the disability is permanent in character. If the annuitant fails to submit to examination, annuity payments are suspended until continuance of the disability is satisfactorily established.

Section 8455. Recovery; restoration of earning capacity

Subsection (a)(1) provides for termination of the annuity to an individual who recovers from disability before age 60. The termination date is the date of reemployment by the Government or 1 year after the date of OPM's determination of recovery, whichever is earlier.

Subsection (a)(2) provides for termination of the annuity if an annuitant, before age 60, is restored to earning capacity through receiving income from wages or self-employment or both which equals at least 80 percent of the current rate of pay of the position held before retirement. Payment terminates 180 days after the end of the calendar year in which earning capacity is restored.

Subsection (b)(1) provides that if an annuitant whose annuity was terminated under subsection (a) is not reemployed in a position subject to this chapter, the individual is deemed, except for service

credit, to have been involuntarily separated, for the purpose of subchapter II of this chapter, as of the date the annuity is terminated. After that termination, the individual is entitled to an annuity under the provisions of such subchapter.

Subsection (b)(2) provides that the annuity terminated under (a)(2) is resumed if the individual is not reemployed in a position subject to this chapter, continues to be disabled, and income from wages or self-employment or both during the year in which benefits were terminated is less than 80 percent of the pay for his or her position. Payments will resume effective the first of the year after the year in which income was less than 80 percent. The annual rate of the annuity upon resumption is the rate applicable under section 8452.

Subsection (b)(3) provides that if an annuitant whose annuity is terminated based on a finding of medical recovery is not reemployed in a position subject to this chapter, the annuity is restored at the applicable rate under section 8452 effective from the date OPM determines there has been a recurrence of the disability.

Subsection (b)(4) states that paragraphs (2) and (3) do not apply to an annuitant receiving an annuity from the Fund under subchapter II of this chapter.

Section 8456. Relationship to workers' compensation

Subsection (a) provides that an individual is not entitled to receive both an annuity under this chapter and compensation for injury to or disability of the individual under subchapter I of chapter 81 of this title covering the same period of time. This does not bar the claimant's right to the greater benefit conferred by either subchapter for any part of this period of time, nor does it deny the individual any concurrent benefit he or she is entitled to receive under this chapter and under subchapter I of chapter 81 on account of the death of another individual.

Subsection (b) provides that an individual's receipt of a lump-sum payment for compensation under section 8135 shall not affect the individual's entitlement to an annuity under this subchapter. However, if the annuity payable under this subchapter for the same disability for which a lump-sum payment of compensation has been made, the compensation amount paid for a period extended beyond the date payment of disability benefits begins is refunded to the Employee's Compensation Fund maintained by the Department of Labor. The amount owned and the method of settlement are as determined by the Department of Labor.

Section 8457. Military reserve technicians

Subsection (a)(1) provides that an individual is entitled to an annuity under this chapter who—

(A) is separated from employment as a military reserve technican by reason of a disability that disqualifies the individual from membership in a reserve component of the Armed Forces or from holding the military grade required for such employment;

(B) is not considered disabled under section 8451(a)(1)(B);

(C) is not appointed to a position in the Government; and

(D) has not declined an offer of appointment to a position in the Government.

Subsection (a)(2) provides that payment of an annuity under this section terminates on the date the individual is appointed to a position in the Government or declines an offer of appointment to a position in the Government, or recovers from disability as provided in section 8455(a) of this title.

Subsection (a)(3) provides that an individual eligible to retire early under section 8414(c) of this title may not retire under this section.

Subsection (b) provides that any individual applying for or receiving an annuity under this section shall be considered by any agency of the Government, as specified by OPM, before any vacant position in the agency is filled if the position is in the same commuting area and at the same grade or level and the individual is qualified for it.

SUBCHAPTER VI—GENERAL AND ADMINISTRATIVE PROVISIONS

Section 8461. Authority of the Office of Personnel Management

Subsection (a) provides that OPM shall pay all benefits that are payable from the CSRS Fund.

Subsection (b) provides that OPM shall administer all provisions of this chapter not specifically required to be administered by the Board, the Executive Director, Secretary of Labor or any other entity.

Subsection (c) provides for OPM to adjudicate all claims under this chapter which are administered by OPM.

Subsection (d) provides for OPM to determine questions of disability and dependency and to require medical or other examinations as necessary. OPM's decisions are final and not subject to review except as provided in subsection (e).

Subsection (e) provides that administrative actions under chapter 84 may be appealed to the Merit Systems Protection Board. Board decisions in cases involving disability retirement based on an individual's mental condition shall be subject to judicial review under section 7703 of this title.

Subsection (f) provides for OPM to set physicians' fees for disability examinations.

Subsection (g) permits OPM to make regulations to carry out the provisions of this chapter which it administers.

Subsection (h) requires each Government agency to furnish OPM with information necessary to carry out this chapter, and requires safeguards to limit the use of information to the purpose authorized.

Subsection (i) provides for OPM to use the same economic assumptions in determining "actuarial equivalence" as most recently used in determining the normal cost of the System.

Subsection (j)(1) provides for the Director of the Central Intelligence Agency (CIA) to administer provisions of this chapter for CIA employees including determining entitlement to benefits, maintaining service records, computing benefits, collecting deposits to the Fund, and performing other appropriate functions after consulting the Director of OPM.

Subsection (j)(2) provides for the Director of OPM to furnish information and services as requested by the Director of the CIA to carry out paragraph (1).

Subsection (k)(1) provides for the Director of the CIA, in consultation with the Executive Director, to administer certain provisions of the Thrift Savings Plan for CIA employees. These include: maintaining records of elections, contributions and accounts; providing for employee and employer contributions to be accounted for by the Executive Director in aggregate amounts; making disbursements and allocating earnings and losses to individual accounts; and other appropriate functions (excluding investing sums in the Thrift Savings Fund).

Subsection (k)(2) provides that the Executive Director of the Thrift Board may not exercise authority in the case of CIA employees to the extent that the Director of the CIA exercises authority provided for in paragraph (a).

Subsection (k)(3) provides for the Executive Director to furnish information, on a reimbursable basis, to the Director of the CIA necessary to carry out this subsection.

Subsection (l) provides that provisions concerning information relating to CIA employees and their Thrift Savings Plan accounts must be applied in a manner that protects intelligence methods and activities.

Subsection (m)(1) provides that the Director of the CIA, in consultation with the Director of OPM and the Executive Director of the Thrift Board, shall prescribe regulations to carry out subsections (j), (k), and (l).

Subsection (m)(2) provides that such regulations include procedures for OPM to audit disbursements from the CSRS Fund and the Thrift Savings Fund.

Subsection (m)(3) requires the Director of the CIA to submit such regulations to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House before they take effect.

Section 8462. Cost-of-living adjustments

Subsection (a) specifies that, for this section, the term "base quarter" means, with respect to a year, the calendar quarter ending on September 30 and that the price index for a base quarter is the arithmetic mean of such index for the 3 months of such quarter. It also defines the term "percent change in the price index" with respect to a year to mean the percentage increase in the price index from the base quarter of the preceding year in which a cost-of-living adjustment (COLA) under this subsection was made.

Subsection (b)(1) provides that effective December 1 of each year in which a COLA under this subsection is to be made, each annuity payable from the Fund (other than a child's benefit) is adjusted by the excess of the percent increase in the Consumer Price Index (CPI) over 1 percent if the percent increase in the CPI exceeds 3 percent. If the percent increase in the CPI is less than 3 percent, the COLA is the lesser of the percent increase in the CPI or 2 percent.

Subsection (b)(2) provides that an adjustment shall be made only in a year in which the price index for the base quarter of such year exceeds the price index for the base quarter of the preceding year.

Subsection (b)(3) provides that an annuity under chapter 84 shall not be subject to adjustment under section 8340.

Subsection (c) provides that eligibility for an annuity increase under a COLA is governed by the commencing date of each annuity as of the effective date of the increase except as provided in (1), (2) and (3).

Subsection (c)(1) provides for a pro-rata share of the increase to retirees or survivor annuitants (other than a child) for whom this is the first increase.

Subsection (c)(2) provides for an increase in the annuity of a survivor (other than a widow or widower of a disability annuitant or a child) from its commencement date equal to the total percentage by which the deceased annuitant's annuity had been increased from the date it began through the date it ended.

Subsection (c)(3) provides that no cost-of-living adjustments will be made for retirement annuities for annuitants under age 62. This restriction applies to annuitants under the immediate, deferred or early retirement provisions. It does not apply to those receiving disability or survivor benefits nor does it apply to those receiving annuities as law enforcement officers, firefighters, air traffic controllers or military reserve technicians separated because of deemed disability, special CIA personnel and members of the Foreign Service.

Subsection (c)(4) provides for the first cost-of-living adjustment to an annuity of a widow or widower of a disability annuitant to be a pro-rata share of the applicable percent change since the date of the last adjustment to the annuitant's annuity or the commencement date of the annuitant's annuity if the annuity had not been previously adjusted.

Subsection (d) provides that the monthly installment of an annuity is rounded to the next lower dollar, but the increase is to be at least $1.

Subsection (e) provides for the $15,000 amount referred to in section 8442(b)(1)(A)(ii) relating to widow or widower benefits to be increased as annuities under chapter 83 are increased.

Section 8463. Rate of benefits

This section provides that each annuity and disability benefit is stated as an annual amount, one-twelfth of which, fixed at the next lower dollar, is the monthly rate payable on the first business day of the first month beginning after the month for which the annuity or disability benefit has accrued.

Section 8464. Commencement and termination of annuities

Subsection (a)(1) provides that, unless otherwise specified, an annuity begins the first day of the first month after separation from employment in the case of an immediate annuity, a deferred annuity, or an annuity under the early retirement provisions of section 8414(a) relating to removal of a member of the Senior Executive Service for inadequate performance or section 8414(b)(1)(B) relating to reduction in force. It also provides that an annuity begins the

day after separation in the case of involuntary separation under section 8414(b)(1)(A), separation of a military reserve technician under section 8414(c) and disability retirement.

Subsection (a)(2) provides for the annuity to begin the day after separation for an employee or Member who retires entitled to an immediate annuity upon expiration of a term to which appointed or elected.

Subsection (b) provides that an annuity under subchapters II or V terminates on day of death or when another terminating event occurs.

Section 8465. Waiver, allotment and assignment of benefits

Subsection (a) provides that an individual entitled to an annuity from the Fund may decline to accept all or part of these benefits by filing a waiver with OPM. The waiver may be revoked in writing at any time. Payment of the benefits waived may not be made for the period the waiver was in effect.

Subsection (b) permits an individual entitled to an annuity to make allotments or assignments from such benefits for such purposes as OPM considers appropriate.

Section 8466. Application for benefits

Subsection (a) provides that no benefits may be paid unless an application for payment is received by OPM before the 115th birthday of the former employee or Member on whose service benefits are based.

Subsection (b) provides that benefits based on the death of an employee, Member, or annuitant or former employee or Member will not be paid unless an application is received by OPM within 30 years after the death or other event which establishes the entitlement to the benefit.

Subsection (c) provides for payments due a minor or a mentally incompetent or otherwise legally disabled individual to be made to a legal guardian or fiduciary.

Section 8467. Court orders

Subsection (a) provides that payments under this chapter which would otherwise be made to an employee, Member or annuitant shall be paid in whole or in part to another person if expressly provided for in a court order or court-approved property settlement incident to a divorce, annulment, or legal separation. Any payment under this paragraph to a person bars recovery by any other person for the same payment.

Subsection (b) provides that subsection (a) applies only to payments made by OPM or the Executive Director after the date they receive written notice of such decree, order, or agreement and such additional information and documentation as they may require.

Section 8468. Annuities and pay on reemployment

Subsection (a) provides that when an annuitant becomes employed in an appointive or elective position in the Government, his or her annuity terminates effective on the date of employment. Service after employment is covered by this chapter unless such service is performed as a federal judge or subject to another gov-

ernment retirement system. When the employment terminates, the annuitant's rights under subchapter II or V are redetermined. If the annuitant dies while employed, a survivor annuity shall be redetermined as if employment had otherwise terminated on the date of death.

Subsection (b) provides that the annuity resulting from a redetermination of rights will not be less than the amount of the terminated annuity plus cost-of-living increases occurring during the same period it was terminated.

Subsection (c) provides for the redetermined annuity to begin on the first day of the month after termination of employment.

Section 8469. Withholding of State income taxes

Subsection (a) provides for OPM to make an agreement with any State as requested to withhold State income tax from the monthly annuity of an annuitant who requests such.

Subsection (b) provides that an annuitant is allowed to have only one withholding request in effect at any time and a maximum of two during any calendar year.

Subsection (c) provides that an annuitant may change the State designated for withholding subject to subsection (b) and may revoke any request for withholding.

Subsection (d) provides that this section does not give the consent of the United States to the application of a statute which imposes greater burdens on the U.S. than on other employers, or which subjects the U.S. or any annuitant to liability because of this section. OPM cannot accept pay from a State for services for withholding. Erroneous withholdings to States are to be repaid.

Subsection (e) defines the term "State" to mean a State, the District of Columbia, or United States territory or possession. It also defines "annuitant" to include a survivor who is receiving an annuity.

Section 8470. Exemption from legal process; recovery of payments

Subsection (a) provides that amounts payable under subchapters II, IV or V are not assignable or subject to exemption, levy, attachment, garnishment or other legal process unless otherwise provided by Federal law.

Subsection (b) provides that recovery of payments under subchapter II, IV or V may not be made when OPM judges that the individual is not at fault. Recovery of money paid based on certification or payment by a former Government employee as part of his or her official duties may be made only after the agency head certifies to OPM that the certification or payment involved fraud by the former employee.

Subchapter VII—Federal Retirement Thrift Investment Management System

This subchapter sets forth the management, policy, and operation of the Federal Retirement Thrift Investment Management System. It establishes the Federal Retirement Thrift Investment Board, the Executive Director function, and the Employee Thrift

Advisory Council, and defines the role of each in the management of the Thrift Savings Fund.

Although thrift plans are a common feature of private sector pension plans, they have been used in only a few Federal organizations—the Tennessee Valley Authority, the Federal Reserve Board, the Federal Deposit Insurance Corporation, and the Comptroller of the Currency. None of these Federal Thrift plans is comparable in size, scope and complexity to the Thrift Savings Plan for the Federal workforce covered under this plan. The conferees designed the system to parallel private sector practice where possible but took into account the special political and economic considerations presented by a large scale thrift plan for the Federal retirement systems. To the extent possible, the Federal Retirement Thrift Investment Management System meets the requirements of the Employee Retirement Income Security Act of 1974 (ERISA). In some cases, additional safeguards were built into the system.

Section 8471. Definitions

Paragraph (1) defines "beneficiary" as the individual (other than a participant) entitled to receive a payment from the Thrift Savings Fund under subchapter III of this chapter.

Paragraph (2) defines "Council" as the Employee Thrift Advisory Council which is established under section 8473.

Paragraph (3) defines "participant" as an individual for whom an account has been established under section 8439.

Paragraph (4) defines "person" as an individual, partnership, joint venture, corporation, mutual company, joint-stock company, trust, estate, unincorporated organization, association, or labor organization.

Paragraph (5) defines "Thrift Savings Fund" as the Thrift Savings Fund established under section 8437.

Section 8472. Federal Retirement Thrift Investment Board

Subsection (a) establishes the Federal Retirement Thrift Investment Board in the Executive Branch of the Government.

Subsection (b) establishes Board membership as follows: Three members appointed by the President, with one of the three being designated as Chairman, and two members appointed by the President, one after taking into consideration a recommendation by the Speaker of the House of Representatives in consultation with the House Minority Leader, and one after taking into consideration a recommendation by the Senate Majority Leader in consultation with the Senate Minority Leader.

Subsection (c) requires that the appointments under subsection (b) of this section by made with the consent of the Senate, except for initial appointments under section 311 of this Act, which are for only one year.

Subsection (d) requires that members appointed to the Board have substantial experience, training, and expertise in the management of financial investments and pension benefit plans.

Subsection (e) provides that the term of office for Board members shall be four years, except for the members appointed first under the special authority of section 311 and those first appointed to succeed such members. Following the terms of the members first ap-

pointed, the first Chairman shall be appointed to a term of four years, the first two members appointed with the recommendation of Congressional leadership will be appointed for three-year terms, and the remaining two members will be appointed for a term of two years. This subsection also provides that Board vacancies are to be filled in the same manner and the same conditions as those applied to the original appointment other than appointment under section 311. Those chosen to fill a vacancy will be appointed for the unexpired term of the member replaced. No term shall expire before the date the successor takes office.

Subsection (f) defines the required responsibilities of the Board to establish policies for investment and management of the Thrift Savings Fund and for administration of the thrift plan benefits payable from the Thrift Fund. The Board must also review the investment performance of the Thrift Fund, supervise the Executive Director, and review and approve the budget for the Board.

Subsection (g) provides for the Board to delegate responsibilities to and direct the actions of the Executive Director to carry out Board policies with regard to the provisions in subchapter III and this subchapter. This subsection also provides for the Board to remove the Executive Director for good cause with concurring votes of four members.

It is intended for the Board to provide broad oversight to the Thrift Savings Fund but not to be involved either directly or indirectly in specific investment decisions. Accordingly, subsection (g)(2) provides that the Board is prohibited from directing the Executive Director to invest in any particular asset or dispose of any asset in the Fund. The Board is not permitted to direct the Executive Director to enter into or terminate a contract relating to investments. The Board, however, is not established to rubber-stamp other actions of the Executive Director. It is intended that the Board assure that actions of the Executive Director are in the interest of the participants of this plan.

Subsection (h) requires the Board members to act solely in the interest of those participating and receiving benefits from the Thrift Fund. The Board members are, in essence, trustees of the fund with respect to the participants. The only consideration to be given to a decision by Board members is whether it is in the interest of the participants, their accounts and their benefits.

Section 8473. Employee Thrift Advisory Council

Subsection (a) provides for the Board to establish an Employee Thrift Advisory Council composed of fourteen members appointed by the Chairman of the Board.

Subsection (b) establishes the composition of the Council as:

(1) four who represent the four largest labor organizations with the largest number of individuals subject to chapter 71 of this title;

(2) two who represent the two labor organizations which have been given exclusive recognition under section 1203(a) of title 39 representing the largest and second largest numbers of individuals employed by the United States Postal Service;

(3) one who represents the labor organization with exclusive recognition under section 1203(a) of title 39 representing the

largest number of individuals employed as rural letter carriers by the U.S. Postal Service;

(4) two who represent the respective managerial organizations which consult with the U.S. Postal Service under section 1004(b) of title 39 and which represent the largest and second largest number of individuals employed in managerial positions by the U.S. Postal Service. These two must be from an organization other than the organization described in (5) below;

(5) one who represents the supervisors' organization as defined in 1004(h) of title 39;

(6) one who represents employee organizations having as a purpose promoting the interests of women in Government service;

(7) one who represents the organization which represents the largest number of employees receiving annuities under this chapter or chapter 83 of this title;

(8) one who represents the largest number of individuals subject to the Performance Management and Recognition System under chapter 54 of this title; and

(9) one who represents the organization which represents the largest number of Senior Executive Service members.

Subsection (c) provides for the Chairman of the Board to designate one member of the Council to serve as the head of the Council. Council members are appointed for a term of 4 years. This subsection also provides that vacancies are to be filled in the same manner and the same conditions as those applied to the original appointment. Those chosen to fill a vacancy will be appointed for the unexpired term of the member replaced. No term shall expire before the date the successor takes office.

Subsection (d) provides that the Council shall act by resolution of a majority of the members.

Subsection (e) stipulates the duties of the Council which are to advise the Board and Executive Director with respect to investment policies of the thrift fund, the administration of the thrift fund and other duties as the Board may direct. The Committee emphasizes that the Council's functions are advisory only.

Subsection (f) specifies that section 14(a)(2) of the Federal Advisory Committee Act, concerning sunset provisions, does not apply to the Council.

Section 8474. Executive Director

This section defines the functions and responsibilities of the Executive Director, who is intended to be the primary manager of the Thrift Plan. Unlike the Board, the Executive Director will have direct responsibility for investment decisions, within the limits provided in this Act.

Subsection (a) provides for the Board to appoint an Executive Director with majority agreement by the members of the Board. The Board will set the terms and conditions of service for the Executive Director, who must have substantial experience and expertise in the management of financial investments and pension benefit plans. It is intended that the Executive Director have extensive experience in the management of pension plans, including investments and administration.

Subsection (b) describes the required responsibilities of the Executive Director. They are to carry out Board-established policies, invest and manage the Thrift Savings Fund in accordance with policies established by the Board, administer the Thrift Savings Fund, and provide for payment of annuities and other authorized distributions from the Thrift Savings Fund.

Subsection (c) describes the discretionary functions of the Executive Director.

Subsection (c)(1) provides that the Executive Director may prescribe regulations to carry out his/her responsibilities as defined in this section, other than regulations relating to fiduciary responsibilities.

Subsection (c)(2) provides that the Executive Director may appoint personnel to carry out the provisions of this subchapter and subchapter III.

Subsection (c)(3) provides for the Executive Director to contract for services of experts and consultants under section 3109 of this title, subject to approval by the Board.

Subsection (c)(4) provides for the Executive Director to obtain from Federal entities information, data, and advice, as necessary.

Subsection (c)(5) provides for the Executive Director to make payments from the Thrift Savings Fund as necessary.

Subsection (c)(6) provides for the Executive Director to pay compensation, per diem, and travel expenses of personnel employed by the Board from the Thrift Savings Fund.

Subsection (c)(7) provides for the Executive Director to utilize the services of individuals employed intermittently in the Government service and reimburse these individuals for travel and per diem expenses as authorized by sections 5702 and 5703 of title 5.

Subsection (c)(8) provides for the Executive Director, except as prohibited by law or Board policy, to delegate his/her responsibilities to officers and employees of the Board and provide for further delegation.

Subsection (c)(9) provides for the Executive Director to take other actions as appropriate to carry out his/her function.

Section 8475. Investment policies

This section requires the Board to develop investment policies which provide for prudent investments suitable for accumulating funds for retirement income and low administrative costs.

Section 8476. Administrative provisions

This section provides for the meeting schedule of the Board, quorum for transaction of business, and compensation for members of the Board.

Subsection (a) provides for the Board to meet at the call of the Chairman but at least once during each month.

Subsection (b) provides for the Board to transact business on a majority vote of a quorum of the Board and provides that a vacancy on the Board shall not affect the authority of a quorum.

Subsection (c) provides that three members of the Board constitute a quorum.

Subsection (d) provides for Board members who are not officers or employees of the Federal Government to be compensated at the

daily rate of basic pay for grade GS-18 of the General Schedule for each day they perform Board functions. Board members are to be paid travel and per diem expenses as necessary. Payments will be made from the Thrift Savings Fund.

Subsection (e) provides that an employee who is a member of the Board or the Council will not be charged annual leave for time used in performing services for the Board.

Section 8477. Fiduciary responsibilities; liability and penalties

This section identifies fiduciaries and their responsibilities, defines "party in interest", states basic standards of fiduciary conduct, lists prohibited practices by fiduciaries and describes penalties for violations.

Subsection (a) provides definitions of terms which are used in this section.

Subsection (a)(1) broadens the term "account" so it is not limited by the definition in section 8401(1).

Subsection (a)(2) defines "adequate consideration" as follows:

(A) in the case of a security for which there is a generally recognized market—

(i) the price of the security prevailing on a national securities exchange which is registered under section 6 of the Securities Exchange Act of 1934; or

(ii) if the security is not traded on such a national securities exchange, a price not less favorable to the Thrift Savings Fund than the offering price for the security as established by the current bid and asked prices quoted by persons independent of the issuer and of any party in interest; and

(B) in the case of an asset other than a security for which there is a generally recognized market, the fair market value of the asset as determined in good faith by the fiduciary or fiduciaries in accordance with regulations by the Secretary of Labor.

Subsection (a)(3) defines the term "fiduciary" to include each member of the Board and the Executive Director, any person with discretionary authority over the management of assets of the Thrift Savings Fund, and any person with respect to the Thrift Savings Fund described in section 3(21)(A) of the Employee Retirement Income Security Act of 1974.

Subsection (a)(4) defines the term "party in interest" to include:

(A) any fiduciary;

(B) any counsel to a fiduciary, acting as such;

(C) any participant;

(D) any person providing services to the Board or the Executive Director, acting as such;

(E) a labor organization, the members of which are participants;

(F) a spouse, sibling, ancestor, lineal descendant, or spouse of a lineal descendant of a person described in subclause (A), (B), or (D);

(G) a corporation, partnership, or trust or estate of which, or in which, 50 percent or more of—

(i) the combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of such corporation;

(ii) the capital interest or profits interest of such partnership; or

(iii) the beneficial interest of such trust or estate, is owned directly or indirectly, or held by a person described in subclause (A), (B), (D), or (E) of this clause;

(H) an official (including a director) of, or an individual employed by, a person described in subparagraph (A), (B), (D), (E), or (G), or an individual having powers or responsibilities similar to those of such an official;

(I) a holder (directly or indirectly) of at least 10 percent of the shares in a person described in any subparagraph referred to in subparagraph (H); and

(J) a person who, directly or indirectly, is at least a 10-percent partner or joint venturer (measured in capital or profits) in a person described in any subparagraph referred to in subparagraph (H).

It is intended in this subsection that "party in interest" will be interpreted the same as under the Employee Retirement Income Security Act of 1974.

Subsection (b)(1) provides that a fiduciary will carry out his/her duties solely in the interest of the participants and beneficiaries for the purpose of providing benefits and defraying reasonable expenses of administering the Thrift Savings Fund. It also provides that a fiduciary will act in the manner of a prudent individual who is familiar with such matters in similar circumstances and will diversify investments of the Thrifts Savings Fund to minimize the risk of large losses unless, under the circumstances, it is clearly prudent not to do so. A fiduciary should also act in accordance with the policies described by the Board.

Subsection (b)(2) provides that a fiduciary may not maintain the indicia of ownership of any assets of the Thrift Savings Fund outside the jurisdiction of the district courts of the United States.

Subsection (c)(1) provides that a fiduciary shall not permit the Thrift Savings Fund to transfer assets to a party in interest, acquire property from or sell property to a party in interest, or exchange services with a party in interest, except for adequate consideration.

Subsection (c)(2) provides that a fiduciary will not deal with assets in the Thrift Savings Fund in his/her own interest or for his own account. A fiduciary will not act in any capacity in a transaction involving the Thrift Savings Fund on behalf of or representing a party whose interests are adverse to the interests of the Thrift Savings Fund or the interests of its participants or beneficiaries. A fiduciary will not receive any consideration for his/her own personal account for any party dealing with sums in the Thrift Savings Fund in connection with a transaction involving the Thrift Savings Fund.

Permitted transactions with parties in interest are deliberately liberalized vis-a-vis the Employee Retirement Income Security Act of 1974. This was done to avoid some of the overreaching in the ERISA statute. However, the Act retained the strict prohibitions

against self-dealing. Effective enforcement by the Labor Department of the prohibitions of self-dealing should protect against undesirable arrangements.

Subsection (c)(3)(A) provides that the Secretary of Labor may, in accordance with procedures which the Secretary shall by regulation prescribe, grant a conditional or unconditional exemption of any fiduciary or transaction, or class of fiduciaries or transactions, from all or part of the restrictions imposed by paragraph (2).

Subsection (c)(3)(B) provides that an exemption granted under this paragraph shall not relieve a fiduciary from any other applicable provision of this chapter.

Subsection (c)(3)(C) provides that the Secretary of Labor may not grant an exemption under this paragraph unless he finds that such exemption is—

(i) administratively feasible;

(ii) in the interests of the Thrift Savings Fund and of its participants and beneficiaries; and

(iii) protective of the rights of participants and beneficiaries of such Fund.

Subsection (c)(3)(D) provides that an exemption under this paragraph may not be granted unless—

(i) notice of the proposed exemption is published in the Federal Register;

(ii) interested persons are given an opportunity for a hearing; and

(iii) the Secretary of Labor makes a determination on the record with respect to the respective requirements of clauses (i), (ii), and (iii) of subparagraph (C).

Subsection (d) clarifies that a fiduciary may receive any benefit he/she is entitled to receive as a participant, former participant or beneficiary. It also provides for a fiduciary to be reasonably compensated for services rendered or reimbursement of expenses incurred in carrying out fiduciary duties. This subsection also provides that a fiduciary may serve as an officer, employee, agent, or other representative of a party in interest.

Subsection (e)(1)(A) provides that a fiduciary who breaches the responsibilities prescribed in subsection (b) or violates subsection (c) shall be liable to the Thrift Savings Fund for any resulting losses and must restore to the fund any profits made by the fiduciary through the use of assets of such fund. The fiduciary shall be subject to other relief as a court considers appropriate, including removal of a fiduciary.

Subsection (e)(1)(B) provides that the Secretary of Labor may assess a civil penalty against a party in interest engaging in a prohibited transaction. The amount of the penalty shall be equal to 5 percent of the amount involved in each transaction for each year the transaction continues as defined in section 4975(f) of the Internal Revenue Code. Where the transaction is not corrected within 90 days after notice to the party in interest in violation, the penalty may be up to 100 percent of the amount involved.

Subsection (e)(1)(C) provides that a fiduciary shall not be liable for a breach of fiduciary responsibility committed before becoming a fiduciary or after ceasing to be fiduciary.

Subsection (e)(1)(D) provides that a fiduciary shall be liable for a breach of fiduciary responsibility of another fiduciary in addition to his/her own liability under subparagraph (A) if—

(i) the fiduciary knowingly participates in or attempts to conceal an act or omission of another fiduciary, knowing such an action or omission is a breach;

(ii) by the fiduciary's failure to comply with subsection (b) in the administration of the fiduciary's responsibilities the fiduciary has enabled another fiduciary to commit such a breach; or

(iii) the fiduciary has knowledge of a breach by another fiduciary and does not make reasonable efforts to remedy the breach.

Subsection (e)(1)(E) provides for the Secretary of Labor to prescribe by regulation the procedures for allocating fiduciary responsibilities among fiduciaries, including investment managers. It also provides that any fiduciary who, based on such procedures, allocates to a person any fiduciary responsibility shall not be liable for an act or omission of such person unless such fiduciary violated subsection (b) with respect to the allocation or implementation of the Broad procedures or such fiduciary would otherwise be liable in accordance with subparagraph (D).

Subsection (e)(2)(A) provides that the Secretary of Labor may bring a civil action in the district courts of the United States to determine and enforce a liability under paragraph (1)(A) of this subsection, to collect any civil penalty under paragraph (1)(B) of this subsection or to enjoin any act or practice which violates section 8472 (g)(2) or (h).

Subsection (e)(2)(B) provides that the Secretary of Labor, a participant, beneficiary, or fiduciary may bring a civil action in the district courts of the United States to enjoin any act or practice which violates any provision of subsection (b) or (c) or obtain any other appropriate relief to redress a violation of any such provision.

Subsection (e)(2)(C) provides that any participant or other beneficiary may bring suit in the district courts of the United States to recover benefits due, enforce his/her rights, or clarify his/her rights to future benefits.

Subsection (e)(3) provides that an action brought about under paragraph (2) concerning a fiduciary's breach of responsibility under subsection (b) or violation of subsection (c) may not begin after the earlier of:

(A) 6 years after the date of the last breach or violation or, in the case of omission, the latest date on which the fiduciary could have cured the breach or violation; or

(B) 3 years after the earliest date the plaintiff knew of the breach or violation, except in cases of fraud or concealment in which case the time period is 6 years after discovery.

Subsection (e)(4)(A) provides that district courts of the United States shall have exclusive jurisdiction of civil actions brought under this subsection.

Subsection (e)(4)(B) provides that an action under this subsection may be brought in the District Court of the United States for the District of Columbia or a district court of the United States where the alleged breach occurred or in the district of a defendant.

Subsection (e)(5) provides that a copy of the complaint or petition filed other than by the Secretary of Labor shall be served by certified mail on the Executive Director, the Secretary of Labor, and the Secretary of the Treasury. Any of these officers may intervene in any action. If the action is brought by the Secretary of Labor, he shall notify these officers.

Subsection (f) provides that the Secretary of Labor may prescribe regulations to carry out this section.

Subsection (g) provides that the Secretary of Labor shall establish a regular program to audit compliance with fiduciary requirements. The audit may be conducted by the Secretary of Labor, by contract with a qualified non-governmental organization, or in cooperation with the Comptroller General of the United States.

Section 8478. Bonding

This section provides for bonding of officials and financial institutions of the Thrift Savings Fund, specifying the officials and conditions under which they must be bonded.

Subsection (a)(1) provides that each fiduciary, not including a member of the Employees Thrift Advisory Council, and each person who handles funds or property of the Thrift Savings Fund shall be bonded.

Subsection (a)(2)(A) provides that a fiduciary shall be exempt from the bonding requirement if the fiduciary is a corporation operating under the laws of the United States or any State, is authorized under these laws to exercise trust powers or conduct insurance business, is subject to supervision or examination by a Federal or State authority, and has at all times a combined capital and surplus in excess of a minimum (not less than $1 million) as set by the Secretary of Labor.

Subsection (a)(2)(B) provides that banks or other financial institutions which meet bonding requirements under State law which are equivalent to Federal requirements, as determined by the Secretary of Labor, may be exempt from the bonding requirements of this section under several conditions. These are banks or other financial institutions which are exempt from bonding requirements based on application of subparagraph (A), authorized to exercise trust powers, and not insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

Subsection (b) provides for the Secretary of Labor to set the amount of a bond at the beginning of each fiscal year. The amount of the bond shall be no less than 10 percent of the amount of funds handled or an amount no less than $1,000. The maximum amount shall be $500,000 except when set at a greater amount by the Secretary of Labor after due notice. It also provides that the amount of funds handled during the preceding fiscal year or the estimated amount during the current fiscal year will determine the amount of the bond as provided in regulations prescribed by the Secretary of Labor.

Subsection (c) provides that a bond shall include the terms and conditions the Secretary considers necessary to protect the Thrift Savings Fund against loss. It also provides that a bond have as surety a corporate surety company which is an acceptable surety

on Federal bonds under authority granted by the Secretary of the Treasury and be in a form or of a type approved by the Secretary of Labor.

Subsection (d) provides that it shall be unlawful for any person covered by subsection (a) to receive, handle, disburse or exercise custody or control of funds of the Thrift Savings Fund without being bonded. It also provides that it shall be unlawful for any fiduciary or other person with authority to direct the performance of functions in paragraph (1) to permit the performance of such functions by any person who does not meet the bonding requirements as provided in subsection (a).

Subsection (e) provides that a person required to be bonded under subsection (a) shall be exempt from any other provision of law which would require bonding for handling funds or property of the Thrift Savings Fund.

Subsection (f) provides for the Secretary of Labor to prescribe regulations to carry out the provisions of this section and to exempt a person or class of persons from the requirements of this section.

Section 8479. Exculpatory provisions; insurance

Subsection (a) provides that any provision in an agreement or instrument which purports to relieve a fiduciary from responsibility or liability under this subchapter shall be void.

Subsection (b) provides for the Executive Director to require agencies to contribute not more than 1 percent of the amount contributed to the Thrift Savings Fund under section 8432(c) to purchase insurance to cover potential liability of persons serving in a fiduciary capacity with respect to the Thrift Savings Fund.

Subsection 101(b) amends the table of chapters at the beginning of part III of title 5 to insert after chapter 83 the following:

"84. Federal Employees' Retirement System ..... 8401."

TITLE II—OTHER AMENDMENTS TO TITLE 5 OF THE UNITED STATES CODE

Section 201. Treatment under Civil Service Retirement System of certain individuals excluded from Federal Employees' Retirement System

This section amends portions of chapter 83 relating to the treatment of certain individuals excluded from chapter 84.

Subsection (a). Deductions, contributions, and deposits

Subsection (a)(1) amends section 8334 by adding at the end of the section language that accounts for the contributions of employees or Members described in section 8402(b)(2), namely, those covered under both Social Security and CSRS whose CSRS benefits and contributions are offset by Social Security. The contribution amount is equal to the difference between the amount of the normal CSRS contribution payable by an individual in the position and the amount of OASDI tax payable by the individual.

Subsection (a)(2) provides technical amendments of section 8334 to conform with the changes in subsection (a)(1) above.

Subsection (b). Offset in benefits

Subsection (b) provides a new section 8349 to be added at the end of subchapter III of chapter 83. This new section provides the procedures for reducing benefits under CSRS as a result of entitlement to benefits under the Social Security Act for the same service. Generally, an individual (described in Section 8402(b)(2)) will have his or her CSRS benefit reduced by the amount of the Social Security benefit attributable to Federal service as a result of the Social Security Amendments of 1983. This subsection applies to employees and members again described in section 8402(b)(2).

Subsection (a)(1) of section 8349 provides that an individual described above will have his or her annuity reduced when he or she becomes entitled to old-age benefits under Social Security.

Subsection (a)(2) provides that the reduction begins the first month the individual is entitled to an annuity and an old-age benefit under Social Security.

Subsection (a)(3) provides the formula to determine the reductions. The reduction will equal the amount of the Social Security benefit attributable to Federal service covered by Social Security as a result of the Social Security Amendments of 1983. Even if the Social Security benefit is mostly or entirely attributable to Federal service, the exclusion of Federal wages to determine the reduction will not cause the person to lose fully insured status for the purpose of the formula.

The amount of the benefit will be determined without regard to such things as the earnings test and other reductions.

The reduction may not exceed the product of the old-age benefit that the individual is determined to be entitled to receive and a fraction—total years of Social Security-covered Federal service divided by 40.

The reduction cannot reduce the annuity below zero.

Finally, the reduction is adjusted for inflation under section 8340, relating to the COLA provision applying to CSRS benefits.

Subsection (a)(4) provides that the reduction applies to the annuity (other than a disability annuity) based on service but without regard to a reduction for a former spouse under section 8345(j).

Subsection (a)(5) provides that the reduction operable from preceding paragraphs will not be considered in applying certain provisions of the windfall benefit reduction and the transitional rules under Social Security.

Subsection (b)(1) provides that a disability annuity and a survivor annuity are also subject to a reduction if the recipient is also entitled to Social Security benefits of the same nature as the disability or survivor benefit based on the wages of such individual.

Subsection (b)(2) provides that the reductions for disability and survivor benefits shall be made in a manner similar to the reductions in subsection (a). The reductions will terminate when such Social Security benefits terminate.

Subsection (b)(3) provides that for the purpose of applying the megacap provisions of section 224 of the Social Security Act to the disability insurance benefit, the CSRS annuity before the reduction shall be the annuity used to compute the reduction.

Subsection (b)(4) provides for OPM to issue regulations concerning this section.

Subsection (c). Credibility of interim service

Subsection (c) amends section 8334 by adding a provision for crediting service of employees or Members described in section 8402(b)(2) under CSRS during the interim period 1984–86 covered by the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983. Credit will be granted for such individuals as long as 1.3% of basic pay has been deposited for such service.

Section 202. Non-applicability of Civil Service Retirement System to individuals under Federal Employees' Retirement System

This section provides the technical amendment to section 8331 to exclude from coverage under CSRS employees who are subject to the Federal Employees' Retirement System. It further excludes Members of Congress who are subject to the Federal Employees' Retirement System or who make an election under section 8401(20) not to be subject to such System.

Section 203. Pay for the Executive Director of the Federal Retirement Thrift Investment Board

This section amends section 5314 to place this position at Level III of the Executive Schedule.

Section 204. Alternative forms of annuities

This section inserts a new section 8343a describing alternative forms of annuities under chapter 83 relating to annuities payable from current CSRS. This new section requires the Office of Personnel Management to provide such alternative forms of annuities to the forms currently provided as they consider necessary, except that one of the alternatives must provide payment of a lump-sum credit to the employee or Member, and payment of an annuity to the employee or Member for life. For those who are married at the time of retirement, another alternative must be in the form of a survivor annuity payable for the life of the employee and the surviving spouse. Each alternative provided must be, to the extent practicable, actuarially equivalent to the life annuity provided in subsections (a)–(i) and (n) of section 8339. It is intended that the required annuity forms spelled out above replicate the life annuity and the annuity reduced for a survivor benefit provided for in this chapter except that such benefits be appropriately reduced for the lump sum credit. If an employee is married, a joint waiver is required to make such an election. If an employee has a former spouse entitled to benefits as a result of a court order or decree, the employee cannot make such an election. Finally, an employee may, within 18 months after retirement, make a retroactive election under section 8339(o).

Section 205. Retirement counseling

This section establishes a new section 8350 requiring each agency head to designate one or more employees in the agency to be retirement counselors. OPM must establish a training program for these retirement counselors regarding the benefits provided under chapters 83 and 84.

Section 206. Participation by certain employees and Members only in the thrift savings plan

This section establishes a new section 8351 permitting remaining employees covered by CSRS to elect to contribute to the Government Securities Investment Fund established as part of the Thrift Savings Fund under subchapter III chapter 84. Contributions may not exceed 5 percent of basic pay and no contributions may be made by the employing agency. Annuities and loans are provided on the same basis as for employees covered by FERS. Requirements for spousal waiver or consent do not apply except when a change is made to an election of a deferred annuity from the thrift fund. Elections to contribute are permitted beginning with the first open season specified in section 8432(b) which begins on or after July 1, 1987. Treatment of when and how contributions are to be made to the plan are governed by the provisions of the thrift plan as applied to FERS participants.

Section 207. Miscellaneous amendments

(a) Nonappropriated fund employees

Subsection (a) makes a conforming amendment to section 2105(c)(2) of title 5, United States Code, by indicating that nonappropriated fund employees are excluded from coverage under chapter 84.

(b) Air traffic controllers

Subsection (b) amends section 2109(1) of title 5, United States Code, to expand the definition of air traffic controller or controller to include those who are actively involved in providing preflight, inflight, or airport advisory service to aircraft operators. This definitional change will affect retirement provisions under chapters 83 and 84.

(c) Employees of District of Columbia government

Subsection (c) amends section 6301(2)(B) of title 5, United States Code, to exclude individuals first employed by the government of the District of Columbia beginning October 1, 1987 from the annual and sick leave provisions.

(d) Annual leave accrual

Subsection (d) amends the second sentence of section 6303(a) of title 5, United States Code, to include all service creditable under section 8411 of this title for annual leave accrual.

(e) Coordination with FECA

Subsection (e) amends section 8116 of title 5, United States Code, by adding a new subsection which amends the provision of the Federal Employees' Compensation Act which would otherwise require an election between FECA benefits and any other benefits received on account of Federal employment.

The primary clause takes thrift plan benefits and Social Security benefits out of the election requirement. The first subclause assures that when an employee receives FECA benefits and Social Security disability benefits, the offset in section 224 of the Social Se-

curity Act is applicable. This will reduce Social Security disability benefits in accordance with the formula set forth in that section, known as the megacap formula.

The second subclause provides for FECA disability benefits to be reduced by the full amount of any Social Security retirement benefits earned on account of Federal employment, and for FECA survivor benefits based on the Federal service of an employee to be reduced by the full amount of any Social Security survivor benefits earned on account of Federal employment by that employee. The Department of Labor will rely on information from the Social Security Administration in reducing FECA by only the amount of Social Security benefits attributable to Federal employment.

The offsets created by this provision apply only to benefits actually received. The last sentence of this subsection parallels the last sentence of section 8116(a), which provides that scheduled awards under FECA are not affected by the receipt of Federal retirement or Social Security benefits (i.e. there will be no offset or election).

(f) Exclusions of certain employees

Subsection (f) amends section 8331(1) of title 5, United States Code, to exclude from coverage under CSRS an individual first employed by the government of the District of Columbia beginning October 1, 1987, and provides the language necessary to allow the Director or Acting Director of the Botanic Garden to exclude an employee under section 8347(1) of this title.

(g) Washington representatives of Guam or Virgin Islands

Subsection (g) amends section 8332(b) of title 5, United States Code, by allowing the Washington representative for Guam or the Washington representative for the Virgin Islands who performed service on or after January 3, 1969, and before January 4, 1973, to receive credit for Member service under this subchapter provided the individual also serves as a Member for a period of at least 5 years after January 2, 1973.

(h) Lump-sum credit—conforming change

Subsection (h) amends section 8342(a) of title 5, United States Code, by excepting those who become subject to chapter 84 with prior unvested service under CSRS from certain limitations on receiving a lump-sum credit.

(i) Administration of CIA employee records and benefits

Subsection (i) amends section 8347 of title 5, United States Code, to authorize the Director of Central Intelligence to administer the CSRS records and benefits for employees of the Central Intelligence Agency.

(j) Payment of CSRS and FERS benefits and expenses from the same fund

Subsection (j) amends section 8348(a) of title 5, United States Code, to clarify that the Civil Service Retirement and Disability Fund is available to pay benefits and administrative expenses for both chapters 83 and 84 of such title.

(k) Coverage under FEGLI

Subsection (k) amends chapter 87 of title 5, United States Code, by excluding individuals first employed by the D.C. Government beginning on October 1, 1987 from coverage under the Federal Employees' Group Life Insurance program. It also permits continued coverage for up to 12 months for an employee who enters on active military duty or active duty for training in the same way coverage is continued for other nonpay status.

(l) Coverage under FEHBP

Subsection (l) amends section 8901 to exclude individuals first employed by the D.C. Government, beginning on October 1, 1987, from coverage under the Federal Employees' Health Benefit Program. It also provides insurance benefits to those individuals retiring under chapter 84 under the same conditions as those retiring under chapter 83, incorporates health plan eligibility requirements for former spouses as a result of P.L. 98-615, and permits a family member of a deceased employee or annuitant who was enrolled in a health benefits plan to continue that enrollment.

(m) Coverage under FEHBP—technical amendments

Subsection (m) provides technical amendments to section 8905(c)(1) to include those individuals covered by chapter 84 of this title.

(n) Employees of Federal Retirement Thrift Investment Management System

Subsection (n) amends section 5102(c)(14) of title 5, United States Code, to make it clear that employees of the Federal Retirement Thrift Investment Management System are covered under the position classification system.

TITLE III—OTHER PROVISIONS RELATING TO THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM AND THE CIVIL SERVICE RETIREMENT SYSTEM

Section 301. Elections

Subsection (a). Elections for individuals subject to the Civil Service Retirement System

This subsection allows those employees and Members who, as of June 30, 1987, are subject to subchapter III of chapter 83 of title 5, United States Code, with the exception of those individuals described under section 8402(b)(1), to elect to become subject to chapter 84. Elections under this paragraph must be made between July 1, 1987 and December 31, 1987 inclusively.

Those individuals who are reemployed by the Federal Government after June 30, 1987 and are subject to subchapter III of chapter 83, have a period of six months following their reemployment to elect coverage under chapter 84.

Subsection (b). Elections for certain individuals serving continuously since December 31, 1983

This subsection permits individuals described in section 8402(b)(1) of title 5, United States Code (Members of Congress and political appointees at the GS–16 level and above in the Executive Branch who were serving in such capacities on December 31, 1983 and who were subsequently covered by Social Security), to choose, after June 30, 1987 and before January 1, 1988, another type of retirement coverage or to generally retain the coverage they have. The choices, which depend on their coverage as of December 31, 1986, are:

(1) Those paying the full CSRS contribution plus Social Security may remain so covered or elect (A) to take a reduced CSRS contribution and an offset of their CSRS benefit by their Social Security benefit attributable to Federal service, or (B) to become subject to FERS.

(2) Those paying a reduced CSRS contribution plus Social Security become subject to a revised CSRS system on January 1, 1987. The contribution amount will be the CSRS amount minus the OASDI amount. The benefit is subject to a 100% offset of the Social Security benefit attributable to Federal service. They may elect coverage under FERS beginning on July 1, 1987.

(3) Those paying only Social Security on December 31, 1986 may elect to become subject to FERS during the six-month window if they did not elect to become subject to chapter 83 after December 31, 1986. If the person has authority to become subject to chapter 83 pursuant to notification, nothing in this section precludes that individual from making such an election except one who becomes subject to chapter 83 after December 31, 1986 becomes subject to the revised CSRS which is offset by OASDI contributions and benefits.

Subsection (c). Effective date; irrevocability

This subsection provides that an election under this section takes effect the first pay period after the election and is irrevocable.

Subsection (d). Condition for making an election; extension to satisfy condition

This subsection provides that an election to become subject to FERS may not take effect without the written consent of a former spouse who is entitled to benefits under section 8341(h) or 8345(j) of title 5, United States Code, under the terms of a decree of divorce or annulment, or a court order or court-approved property settlement incident to such decree, with respect to which OPM has been notified. The requirement is satisfied if the individual seeking to make the election establishes that the former spouse's whereabouts cannot be determined or consent is otherwise inappropriate. OPM may extend the election period by six months or more if the individual applies for extension before the end of the election period and demonstrates that the extension is needed to secure the modification of a decree or agreement in order to satisfy the consent requirement.

Subsection (e). Exclusions

This subsection excludes employees of the District of Columbia from making an election under this section.

Section 302. Effect of an election under section 301 to become subject to the Federal Employees' Retirement System

Subsection (a)(1) establishes that all provisions of chapter 84 apply to those who, under section 301, elect to become subject to chapter 84, except as follows:

(A) Any civilian service performed prior to the election under section 301 will not be creditable under chapter 84 except as provided elsewhere in this subsection.

(B) Any service prior to the election under section 301 which is covered service within the meaning of section 203(a)(3) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 (the interim plan that was in effect during 1984-86) is creditable under chapter 84 of title 5, United States Code, if—

(i) with respect to such service performed before January 1, 1987, 1.3 percent of basic pay was withheld in accordance with the Act, or, if the withholding was not made, or was made and subsequently refunded, 1.3 percent of basic pay for such period is deposited to the Fund with interest; and

(ii) with respect to such service performed after December 31, 1986, and before the effective date of the election, the percentage of basic pay required to be withheld under section 8422(a) (the normal CSRS contribution for that position minus the amount of the OASDI tax) is either withheld or deposited to the Fund.

(C) Service of less than 5 years not covered by Social Security as a result of the Social Security Act Amendments of 1983, which is or would be creditable under chapter 83 if not for provisions of this Act which bar such coverage, and occurring prior to the election to join FERS is creditable under FERS if the deposit has been or is made under section 8411(f) at the 1.3-percent rate plus interest. Such service would no longer be creditable under chapter 83 if the election were made.

(D) Service of 5 years or more, creditable under chapter 83, and occurring prior to the election to join FERS is creditable for:

(1) service to be vested in the basic annuity under chapter 84;

(2) service to be eligible to retire under section 8412 (other than that applicable for law enforcement, firefighter, or air traffic controller eligibility unless it was that type of service);

(3) service to be eligible for deferred benefits under section 8413;

(4) service to be eligible for involuntary, early retirement or discontinued service retirement under section 8414;

(5) service to be eligible for a survivor annuity under section 8442(b)(1)(B);

(6) service to be eligible for a disability benefit under section 8451;

(7) service to be computed under chapter 83, relating to accrual rates (and without regard to subsection 8339(j) or (k) relating to reductions in connection with the election of a survivor annuity and the second sentence of subsection 8339(e) relating to air traffic controllers); and

(8) service to be used to compute the high-3 average pay.

Subsection (a)(2) provides that the creditability of any military service performed before the effective date of the election under section 301 is determined in accordance with applicable provisions of chapter 84, with an exception. For an employee with service described in paragraph (1)(D), that is, service of 5 or more years creditable under chapter 83, his or her military service is creditable for annuity eligibility under sections 8412 relating to eligibility for immediate benefits (other than subsection (d) or (e) relating to benefits for law enforcement officers, firefighters and air traffic controllers), 8413 relating to deferred benefits or 8414 relating to early retirement and involuntary retirement. Such service though, is computed under chapter 83 rules.

Subsection (a)(3) provides that if the electing individual becomes entitled to an annuity under subchapter II of chapter 84 or dies leaving a survivor or survivors entitled to benefits under subchapter IV of such chapter, the annuity for such individual shall be equal to the sum of the individual's accrued benefits under the CSRS and the individual's accrued benefits under the FERS. The annuity computed under this paragraph, that is, the sum of the CSRS and FERS benefits, is deemed to be the individual's annuity computed under section 8415. Any survivor entitled to a survivor benefit would receive 50% of the newly deemed annuity under section 8415.

If the individual becomes entitled to a disability annuity under subchapter V of chapter 84 and the individual attains age 62 where a computation becomes necessary under section 8415, then again the combined annuity under CSRS and FERS will be used to compute the 8415 benefit. This paragraph, in essence, means the electing individual is no longer entitled to a chapter 83 benefit. The benefit is a chapter 84 benefit.

Subsection (a)(4) provides that, except for a reemployed annuitant under paragraph (12)(B), accrued benefits under this paragraph shall be computed under subchapter III of chapter 83 using only any civilian and military service which would be creditable for purposes of computing an annuity under such subchapter. Special computation rules concerning a reduction for a survivor annuity or the minimum benefit for an air traffic controller do not apply. Thus, an electing individual with 5 or more years of creditable chapter 83 service will have those years computed in determining accrual rates under chapter 83 rules.

Subsection (a)(5) provides that accrued benefits under this paragraph shall be computed under section 8415, using—

(A) service creditable under chapter 84 performed on or after the effective date of the election under section 301; and

(B) with respect to service performed before such effective date, creditable civilian service of less than 5 years, and

creditable military service performed prior to the election by an employee with less than 5 years of civilian service.

Subsection (a)(6) provides that in determining the average pay used for benefit computations under both the CSRS and FERS formulas, the amount shall be the individual's high-3 pay or, in the case of an annuity based on service of less than 3 years, over the total period of service so creditable, with each rate weighted by the period that was in effect. Service is creditable if it is considered creditable for determining average pay under chapter 83 for chapter-83 service and chapter 84 for chapter-84 service.

Subsection (a)(7) provides that the cost-of-living adjustments for the annuity of the electing individual shall be made as follows:

(A) The portion of the annuity attributable to CSRS computation rules shall be adjusted at the time and in the amount provided for under section 8340.

(B) The portion of the annuity attributable to FERS computation rules shall be adjusted at the time and in the amount provided for under section 8462.

Subsection (a)(8) provides that for any computation under CSRS rules in the case of an individual who retires under section 8412 or 8414, or who dies leaving a survivor or survivors entitled to benefits under subchapter IV of chapter 84, sick leave creditable under section 8339(m) shall be equal to the number of days of unused sick leave to the individual's credit as of the date of retirement or death as the case may be, or as of the effective date of the individual's election under section 301, whichever is less. The unused sick leave is then computed under the chapter-83 rules.

Subsection (a)(9) provides that for an annuity computed under paragraph (3) for an individual retiring with reduced benefits after 10 years of service under section 8412(g) or 8413(b), the 5%-per-year reduction under section 8415(f) of such title shall apply with respect to both the CSRS and FERS parts of the annuity. The reduction does not apply to those entitled to a deferred annuity under section 8413(b) if the individual has sufficient service to qualify for an unreduced benefit when he or she attains the requisite age.

Subsection (a)(10) provides that a supplementary annuity payment under section 8421 shall be computed using the same service as is used for the computation of accrued benefits under paragraph (5). Thus, the annuity supplement affects the amount of service under FERS after the election. For purposes of the computation under section 8421(b)(2), employees with 5 or more years of creditable CSRS service which was not subject to Social Security coverage will have those years treated as zeros in the formula to determine the assumed old age insurance benefit.

Subsection (a)(11) provides that, effective from its commencing date, an annuity payable to an annuitant's survivor (other than a child) shall be increased under paragraph (7). Thus, the percentage of the annuity attributable to CSRS computation is adjusted under chapter 83 and the percent attributable to FERS computation is subject to chapter 84.

Subsection (a)(12) provides that if the electing individual is a reemployed annuitant under section 8344 at the time of making the election, payment of annuity benefits otherwise payable to such individual under subchapter III of chapter 83 of such title (and any

related deductions from pay) shall terminate as of the effective date of the election. Upon separation from employment, accrued benefits for such an individual prior to the election to transfer are computed under paragraph (4), relating to CSRS computation rules, and as if the individual's reemployment terminated on the effective date of the election. The annuity computed up to date of transfer utilizes the high-3 pay at date of transfer. Any cost-of-living adjustments applicable to chapter 83 annuities will be added to the eventual annuity. Service after the election is computed under paragraph (5).

Subsection (b). *Chapter 83 generally inapplicable.*—Except as provided in subsection (a), this subsection provides that subchapter III of chapter 83 does not apply to anyone who elects to become subject to chapter 84. This does not preclude making a deposit under such subchapter with respect to any civilian or military service by an employee with 5 or more years of creditable service under chapter 83 who elects coverage under FERS or, for purposes of survivor annuities, by a survivor of such individual. Payment of any lump-sum credit in accordance with section 8342 is also not precluded.

Subsection (c). *Refunds relating to certain civilian service.*—Any individual who makes an election under section 301 to become subject to chapter 84 and who, with respect to any period before the effective date of the election, has made a contribution to the Civil Service Retirement System (whether by deductions from pay or by a deposit or redeposit) and has not taken a refund of the contribution, shall be entitled, upon application to OPM, to a refund as follows. (A) For interim period service before January 1, 1987, the refund is the amount by which the contribution exceeded 1.3 percent of basic pay. (B) For service after December 31, 1986, and before the effective date of the election, the refund is the amount by which the contribution exceeded the amount required to be withheld under section 8422(a). (C) For service before the election by an individual with less than 5 years of CSRS creditable service, the refund is the amount by which the contribution exceeds 1.3% of pay plus interest for that period. Refunds are payable with interest if the individual was entitled to interest on a lump sum credit filed under chapter 83.

Section 303. Provisions relating to an election to become subject to chapter 83 subject to certain offsets relating to Social Security

Subsection (a). Refund

An individual who makes an election under section 301(b)(1)(A), namely, someone covered by both Social Security and the full CSRS who elects to take the offset provisions under chapter 83, may apply to OPM for a refund of excess contributions during the period January 1, 1984 through December 31, 1986, equal to the amount by which the contribution under section 8334(a)(1) exceeds 1.3 percent of pay, and of excess contributions after 1986 and before the date of the election equal to the amount by which the contribution during such period exceeds the contribution which would have been made if pay had been subject to section 8334(k) of such title.

Subsection (b). Deposit requirements

An individual covered only by Social Security, who elects to be covered by CSRS under the reduced contribution and benefit offset rules, and wants past service credited to CSRS must pay the amount required by section 8334(k) for service beginning January 1, 1987 through the date of the election. For service between January 1, 1984, and December 31, 1986, the amount required is 1.3 percent of basic pay. For service before January 1, 1984, the amount required is the contribution for the period under subchapter III of chapter 83. A deposit may also be made by the survivor for a survivor annuity.

Section 304. Amendments relating to Social Security

Subsection (a) amends section 210(a)(5) of the Social Security Act to cover prospective service performed by an individual who opts to transfer to the FERS or to the Foreign Service Pension System, as the case may be.

Subsection (b) amends section 3121(b)(5) of the Internal Revenue Code of 1954 to tax the prospective wages of the individual described above.

Section 305. Extension of Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983; refund of excess contributions

Subsection (a) Extension. This subsection amends the expiration date of the Act from May 1, 1986 until January 1, 1987.

Subsection (b) Refunds. This subsection provides that the amendment extending the date takes effect as of May 1, 1986, and that any refunds payable as a result of this effective date are paid from the funds of the appropriate retirement system.

Section 306. Applicability to the United States Postal Service

Section 1005(d) of title 39, United States Code is amended to include officers and employees of the Postal Service for coverage under the provisions of chapters 83 and 84 of title 5, United States Code.

Section 307. Use of "Normal Cost Percentage"

The normal cost percentage as defined by section 8401(23) is to be used for all purposes when the cost of the system is required to be determined. This includes "commercial activities" studies. Since payroll and fringe benefits costs spell the difference between whether a contract is let for a Federal function, the Committee wants consistency of comparison. In this case the cost of the basic Federal pension is compared to the cost of the basic private entity's pension. Costs of Social Security would be excluded from both sides. The cost of the thrift plan is a separate cost to be compared with an entity's thrift plan, profit-sharing plan, and so forth.

Section 308. Retirement study

This section directs the Secretaries of Defense and Transportation to study the retirement systems for the nonappropriated fund instrumentalities of the United States and develop a plan to pro-

vide portability of vested benefits among Federal Retirement Systems. Within 90 days after the enactment of this Act, the Secretaries shall transmit to the Congress a report describing the plan or plans developed along with an implementation schedule.

Section 309. Repeal of automatic transfer provision

This section repeals section 207 of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 concerning transfer of service earned subject to the Act to the new Government retirement system.

Section 310. Disclosure of return information

This section amends the Internal Revenue Code of 1954 by adding a section requiring disclosure by the Social Security Administertion of earnings records for the purpose of administrating the provisions of chapters 83 and 84 of title 5, United States Code. OPM is to reimburse the costs, as determined by the Secretary of Health and Human Services, of supplying such information.

Section 311. Initial appointments to the Federal Retirement Thrift Investment Board

This section provides for the first appointees to the Board to be appointed for one-year terms without Senate confirmation. This provision was added because the Federal Retirement Thrift Investment Management System takes effect on enactment of the bill and many procedural details will need to be attended to prior to January 1, 1987, the effective date of the Federal Employees' Retirement System.

Section 312. Plan for delayed contributions to the Thrift Savings Fund

This section requires the Executive Director of the Federal Retirement Thrift Investment Board to provide a plan to Congress, not later than January 1, 1988, which permits employees an opportunity to make "catch up" contributions reflecting amounts they previously could have contributed but did not.

TITLE IV—FOREIGN SERVICE RETIREMENT

Title IV of P.L. 99-335 establishes a Foreign Service Pension System (FSPS). The new System provides retirement benefits for members appointed after 1983, and is very similar to the Federal Employees' Retirement System (FERS) established by the Act for new appointees in the Civil Service after 1983. All Foreign Service members who become participants in the FSPS would be subject to all provisions of the comparable FERS unless specifically provided otherwise by law. All the exceptions are stated in Title IV.

The Foreign Service has always had its own retirement system separate from the Civil Service retirement system. The basic reason for this is that the Foreign Service needs special provisions for early retirement to permit operation of its up-or-out personnel system. A number of Foreign Service members are mandatorily retired every year to permit advancement of the more competitive and most able personnel. This system was endorsed and expanded

by the Foreign Service Act of 1980 (P.L. 96-465). The special provisions are also necessary to permit the early retirement of members who, for various reasons, are no longer able to serve abroad after completing a career in dangerous and difficult environments.

The FSPS preserves the early retirement and other special features needed by the Foreign Service. It would permit members to retire voluntarily at age 50 with 20 or more years of service with the same benefit as provided by the FERS for "special category" personnel such as law enforcement, firefighter and air traffic controller personnel. Secondly, also like the FERS treatment of "special category" personnel, the FSPS permits Foreign Service members who are retired mandatorily at an early age to receive the basic (middle-tier) annuity based on high-3 salary without penalty for early retirement. The third basic special provision, substantially like the comparable FERS treatment, provides an annuity supplement equivalent to a Social Security benefit based on salary and creditable service—from the date of retirement to age 62 when the annuitant would be eligible for the actual Social Security benefit. The annuity supplements would be reduced by earned income in accordance with the formula in section 8421a of title 5.

A Section-by-Section analysis follows:

The Foreign Service provisions are in title IV of the legislation.

Short title

Section 401(a) provides a short title for title IV.

Section 401(b) provides a citation to the Foreign Service Act of 1980.

Redesignations

Section 402 amends chapter 8 of the Foreign Service Act of 1980, which contains the authority for the existing FSRDS, to designate the existing portion as "Subchapter I" and makes several technical conforming amendments.

Definition of court

Section 403 amends the definition of "court" in the current Act to broaden it to include territorial and Indian courts. The proposed definition is identical to the definition under the CSRS adopted by the Civil Service Spouse Equity Act of 1984 (P.L. 98-615). The amendment is necessary to permit the Secretary to recognize orders by territorial and Indian courts affecting distribution of Foreign Service retirement benefits.

Creditable service for purposes of "pro rata share" distributions

Section 404 makes substantially identical amendments to subsections 804(10), 814(a)(1), 814(b)(1) and 815(i) of the Foreign Service Act relating to "creditable service" to insure an equitable distribution of "pro rata share" benefits to former spouses. This amendment is related to section 861(d) added to the Foreign Service Act by section 415 of this Act and is discussed further in the explanation of that section.

Retirement contributions under FSRDS

Subsection 405(a) amends section 805 of the Foreign Service Act, relating to retirement deductions from pay under FSRDS. The amendment covers persons who become participants after having completed 5 or more years of service under the Foreign Service or other existing Federal retirement system and who are also covered under Social Security. As provided by section 405(a) the contribution to FSRDS for such participants after December 31, 1986 will be equal to the excess of the employee's normal FSRDS contribution over the OASDI portion of the Social Security tax. This provision and the one described below added by section 406 parallel comparable amendments in this legislation for the Civil Service.

Subsection 405(b) also amends section 805 of the Foreign Service Act and applies to the same participants covered by the amendment under section 405(a). The amendment provides that contributions by affected participants for service after December 31, 1983 and before January 1, 1987 shall equal 1.3 percent of basic pay.

Offset relating to certain Social Security benefits

Subsection 406 amends section 806 of the Foreign Service Act to require that annuities under FSRDS of retirees and suvivors based on service of participants affected by the amendment made by section 405(a) shall have their annuities reduced to offset Social Security benefits payable for the same Federal service. The annuity reduction commences when the individuals first become eligible for a Foreign Service annuity and, either—

(1) attain the minimum age for old age benefits under title II of the Social Security Act, or

(2) first become entitled, or would upon proper application become entitled, to disability or survivor benefits under title II of the Social Security Act based on the service of any individual under the FSRDS.

The required reduction is computed as if section 8349 of title 5, United States Code, were applicable.

18-month period to elect survivor annuity under FSRDS

Subsection 407 further amends section 806 of the Foreign Service Act to allow Foreign Service annuitants 18 months from the time of retirement to adjust their survivor annuity election to the maximum, provided they deposit an amount in the Fund to defray the cost of the adjustment. This amendment is comparable to the amendment to title 5, U.S. Code, made by the enactment on February 27, 1986 of the Federal Employees' Benefits Improvement Act of 1986, P.L. 99-251, to permit similar elections under the Civil Service Retirement System. Similar elections will also be authorized under FERS and FSPS under the authority of section 415 of this legislation and chapter 84, title 5, U.S. Code.

Alternate forms of annuities

Subsection 408 amends section 807 of the Foreign Service Act to provide participants in the existing Foreign Service Retirement and Disability System alternate forms of annuities actuarially equivalent to whole life annuities now provided. This amendment

is comparable to the amendment of chapter 83 of title 5 made by section 204 of the Act.

Under the amendment, the Secretary of State would be required to prescribe, among any other alternate forms, an alternative which provides a single participant a refund of his/her retirement contributions without interest plus a whole life annuity. The sum of the refund plus the present value of annuity would equal the present value of the whole life annuity now provided under section 806(a).

In the case of a married participant, the Secretary would be required to prescribe an alternative providing for a refund of retirement contributions without interest plus an annuity to the participant and a survivor annuity for the surviving spouse. The present value of the total alternative benefit for the married participant would equal the present value of the whole life annuity available to the participant under section 806(a).

Recall service

Section 409 amends section 823 of the Foreign Service Act which deals with retirement benefits of retired Foreign Service members who are recalled to active duty. Under the amendment, members who are under FSPS who are recalled in the future will receive the same benefits as reemployed annuitants under section 824 as amended by section 410 of this Act. Annuitants under FSRDS who are recalled will continued to receive benefits under section 823 which provides—

(i) recomputation of benefits if the recall service lasts 5 years or more;

(ii) resumption of former annuity plus a supplemental annuity based on recall salary and service, if the recall service lasts between 1 and 5 years; or

(iii) resumption of former annuity plus refund of contributions without interest if recall service lasts less than 1 year.

Reemployment

Section 410 amends section 824 of the Foreign Service Act which concerns annuitants who are reemployed in Government service. The Foreign Service has long had a distinctive rule on reemployed annuitants to permit use of retired members who are uniquely qualified to perform certain essential tasks. This amendment would modify the current Foreign Service rule in section 824 to provide a uniform rule applicable to annuitants under both FSRDS and the FSPS. This amendment recognizes that some reemployed annuitants will have an annuity under both the new and old systems. It also recognizes that it would be difficult or inappropriate to recompute a Foreign Service annuity following employment under the new FERS.

This amendment would permit annuitants reemployed on a part-time, intermittent or temporary basis to elect to continue to receive their annuity while reemployed up to a ceiling amount. The annuity would be reduced as necessary so that in any year annuity payments when added to salary would not cause the total to exceed the highest annual salary rate for the reemployed position when occupied on a full-time basis. Such employees would receive no ad-

ditional retirement benefits for the reemployed service. This ceiling amount is different from the ceiling currently specified in section 827. The latter is the basic annual salary rate of the participant at the time of initial retirement.

Reemployed annuitants who do not make or are not entitled to make the above election would have their service treated as covered service and would make current contributions to the applicable retirement system. Their Federal Service annuity would be terminated during reemployment. Upon completion of the Federal employment, they would become eligible either for a recomputation of their annuity, if reemployed under the same retirement system, or if not, for a resumption of their old annuity, adjusted for COLA increases that become due during the period of reemployment, plus any benefits of the system under which reemployed.

Maintenance of comparability between FSPS and CSRS

Section 411 amends section 827 of the Foreign Service Act to extend the existing "Executive order" procedure for maintaining conformity between the Civil Service and Foreign Service retirement systems to the new FERS and FSPS.

Moderation of remarriage penalty

Section 412 amends the Foreign Service Act retroactively to November 8, 1984 to moderate the remarriage penalty affecting former spouses, surviving spouses and surviving former spouses of members of the Foreign Service. The amendment permits continuation of benefits or retention of entitlement to benefits if a remarriage occurs on or after age 55 rather than age 60 as at present. The amendment is comparable to the amendment made to chapter 83 of title 5 by P.L. 98-615 effective November 8, 1984.

Those affected whose benefits have been discontinued will be paid a retroactive adjustment.

Lump-sum payments

Section 413 amends section 815(a) of the Foreign Service Act to authorize a lump-sum payment to participants who transfer to the new FSPS for certain types of service aggregating less than 5 years. Such service, if it aggregates less than 5 years, is creditable under FSPS for a participant who elects to transfer to that System, provided a contribution for the service is paid at the applicable rate under the System. If a participant has made a contribution for such service under FSRDS, this amendment permits a lump-sum payment (withdrawal of previous contribution or deposit) for this service from that System upon application of a participant transferring to FSPS.

Prohibition on dual participation

Section 414 amends section 803 of the Foreign Service Act to make clear that a member participating in the FSPS is not a participant in the FSRDS.

FOREIGN SERVICE PENSION SYSTEM

Section 415 is the major substantive amendment. It adds subchapter II of chapter 8 of the Foreign Service Act of 1980, entitled "Foreign Service Pension System," consistency of sections 851 through 862.

Applicability of chapter 84, title 5, United States Code

Section 851 provides that participants in the new FSPS shall be subject to all provisions in chapter 84, title 5, United States Code governing FERS except where otherwise specifically provided by law. The exceptions are all stated in this legislation.

Definitions

Section 852 provides definitions of the following terms: court order, Fund, normal cost, participant, pro rata share, supplemental liability, and System.

Participation

Section 853 provides, in general, that all members of the Foreign Service whose service after 1983 brings them under Social Security and who would, save for this section, be participants in the FSRDS, shall be participants in the FSPS. Three exceptions are stated relating to continuity of employment and temporary or intermittent employees, which are identical to exceptions under FERS.

The first exception applies to members first appointed before 1984 who have not had a break in service in excess of one year that ended after 1983. The second applies to individuals who become or again become members of the Service after completing 5 or more years of service under the existing FSRDS, CSR, or CIARDS retirement system. Members falling into either of the above exceptions may elect to transfer to FSPS.

The third exception provision permits the Secretary of State to exclude certain persons whose employment is temporary or intermittent.

Creditable service

Section 854 makes the following service creditable under FSPS:

(1) service as a participant in FSPS after 12/31/86;

(2) service with respect to which deductions of 1.3 percent of pay have been paid into the Fund pursuant to the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983;

(3) certain miscellaneous Federal civilian service performed before January 1, 1989, which has heretofore been creditable under FSRDS;

(4) prior satisfactory service as a volunteer or volunteer leader in the Peace Corps or VISTA provided a contribution is made. The legislation cites 3 statutes authorizing the volunteer service in question. One concerns the Peace Corps; 2 concern VISTA where the Act of 1973 superseded the relevant portion of the 1964 Act; and

(5) prior service creditable under FERS or the new retirement system for certain employees of CIA provided credit thereunder is waived and a contribution paid to FSPS.

In addition, by virtue of section 851 of the Foreign Service Act, prior military or naval service and certain periods of absence and leave without pay described in 5 U.S.C. 8411 are creditable under FSPS in the same manner as authorized for FERS.

Entitlement to annuity

Section 855 provides special rules governing entitlement to annuity under FSPS. Any entitlement or requirement not mentioned here would automatically, pursuant to section 851, be governed by chapter 84 of title 5, U.S. Code.

Subsection 855(a) makes the voluntary and mandatory provisions of sections 811, 812, and 813 applicable to FSPS.

Subsection 855(b) provides that members retiring voluntarily or mandatorily under section 607, 608, 811, 812 or 813 under conditions authorizing an immediate annuity shall receive an annuity, provided the participant has completed at least 5 years as a member of the Foreign Service. For the period of member (FSPS) service, the annuity is computed as it would be for FERS "special category" personnel under section 8415(d) of title 5. This annuity computation factor is 1.7 percent times average high-3 salary for first 20 years of service and 1 percent for subsequent years. The annuity computation factor for prior service under another Federal retirement system is the same as would have been applicable under the other system. The annuity factor for prior military service or prior volunteer service with Peace Corps or VISTA or other miscellaneous service is one percent, the general factor under the FERS.

Subsection 855(c) provides that those retired under subsection (b) above will be entitled to an annuity supplement from the effective date of retirement to age 62 based on total creditable service of the member and computed under sections 8421(b) and 8421(a) of title 5, using the formula applicable to law enforcement officers.

Subsection 855(d) carries forward to the new System the provision denying pension benefits to a member separated on grounds of disloyalty to the U.S.

Deductions from salary

Section 856 requires agencies employing members of the Foreign Service in FSPS to deduct and withhold 7½ percent of their pay, reduced by the then current Social Security OASDI withholding tax rate, for deposit in the Foreign Service Retirement Fund. This is the same withholding percentage as is applicable to special category personnel under FERS.

Government payments to fund

Section 857 provides for Government contributions to the Fund comparable to those made under FERS. Subsection (a) requires employing agencies to contribute the "normal cost" as determined by the Secretary of State. Subsection (b) provides for amortization of the supplemental liability.

Cost-of-living adjustments

Section 858 provides that annuitants under FSPS receive cost-of-living adjustments under procedures applicable to "special category" employees (annuitants) under FERS as stated in section 8462 of title 5.

General and administrative provisions

Section 859(a) provides that the Secretary of State shall administer the FSPS exclusive of matters pertaining to the Thrift Savings Plan. It also grants the Secretary the same authority granted to the Office of Personnel Management and its Director by chapter 84, title 5, U.S. Code. The thrift plan would be administered as provided in subchapters III and VII of chapter 84, title 5, U.S. Code.

Subsection 859(b) provides that matters in dispute under FSPS, except determinations of disability, will be appealable to the Foreign Service Grievance Board—a Board established by chapter 11 of the Foreign Service Act of 1980 and experienced in Foreign Service matters—rather than to the Merit Systems Protection Board or OPM. Determinations of disability under FSPS will continue to be based on the standards in section 808—"totally disabled or incapacitated for useful and efficient service"—rather than on the civil service standard—"unable to perform useful and efficient service in the employee's position." This is because the Foreign Service has a rank-in-person rather than rank-in-position system and employees are appointed to a class rather than to a position. Appeals of disability determinations will be taken to the Secretary of State, rather than to the Grievance Board, a system that has worked well in the past.

Subsection 859(c) provides that the Secretary of Treasury provide actuarial services for the FSPS similar to the services provided for the FSRDS.

Transition to FSPS

Section 860 authorizes and directs the Secretary of State to issue regulations for the transition to the FSPS, and transfers by current employees, in a manner comparable to that provided for Civil Service employees. Under this authority, for example, members of the Foreign Service under FSRDS will be given an opportunity to make an election to participate in FSPS similar to the election afforded civil service personnel under title III of the Act. Similarly, participants in FSRDS will be given an opportunity to contribute to the Thrift Savings Fund in the same manner and to the same extent as employees and Members under CSR are given such an opportunity by the addition of section 8351 to title 5, U.S. Code, made by section 206 of this legislation.

Generally members employed on June 30, 1987 and then under FSRDS may make an irrevocable election to participate in FSPS between July 1, 1987 and December 31, 1987.

Former spouses

Sections 861 and 862 added to the Foreign Service Act by section 415 as a part of the new Foreign Service Pension System conform that System with existing provisions on former spouses added to

the Foreign Service Retirement and Disability System by the landmark Foreign Service Act of 1980. These sections do two basic things: first, with respect to certain former spouses, section 861 mandates a pro rata share division of retirement and survivor benefits when a different distribution has not been ordered or approved by a court or agreed to by the parties. Secondly, section 862 authorizes a participant in the new System to "contract" with his or her spouse or former spouse on a mutually agreed upon distribution of benefits under the System. The purpose of section 862 is to allow the parties to arrange for a mutually agreed upon distribution of retirement benefits without going to court.

Section 861 would apply only to a former spouse married to a participant during 10 years of service creditable under either FSRDS or FSPS with at least 5 of those years occurring while the participant was an active member of the Foreign Service. This is comparable to the 10-year marriage requirement now in chapter 8 of the Foreign Service Act. Distributions under the Foreign Service Pension System to former spouses other than a pro rata share distribution under section 861 will be governed by provisions in chapter 84 of title 5 applicable to former spouses of employees under the Federal Employees' Retirement System. Those benefits will be available to former spouses as defined in that chapter: married 9 months to an individual with 18 months of civilian service credit.

Subsection 861(a) relates to benefits otherwise payable under the Foreign Service Pension System to a participant, as distinguished from survivor benefits. It provides, in the absence of a court order or spousal agreement to the contrary, for payment to a qualified former spouse of up to 50 percent of the benefits otherwise payable to a former participant under the Foreign Service Pension System after the divorce becomes final and before the former spouse dies or remarries prior to becoming age 55. In the case of a participant who elects to transfer from FSRDS to FSPS, "benefits payable under FSPS" would include, for purposes of a pro rata share distribution, benefits payable under both FSRDS and FSPS under transition regulations to be issued under the authority of section 860.

Subsection (a)(2) provides that the maximum share, 50 percent, would be payable in case a marriage endured during the entire period of a former participant's Government career—during all of the creditable service. In other cases, a pro rata share of 50 percent would be payable to the former spouse depending on the portion of creditable service during which they were married.

Subsection (a)(3) makes a former spouse who remarries before age 55 and before commencement of benefits ineligible for benefits under this section.

Subsection (a)(4) makes payments to a former spouse under this section income to that spouse rather than the participant for purposes of the U.S. Internal Revenue Code.

Subsection (a)(5) makes a former spouse ineligible for any share of a disability annuity under the subsection. However, it provides that the former spouse would be eligible for a pro rata share distribution of the basic annuity under subchapter II, chapter 84, title 5, U.S. Code, that a disabled former participant eventually becomes entitled to receive. This subsection is similar to existing subsection 814(a)(6), the purpose of which is to base pro rata share payments

to former spouses on earned benefits rather than subsidized payments based on disability.

Subsection (a)(6) authorizes a former spouse to make any election regarding method of payment of benefits to which the former spouse becomes entitled which a participant may make except that a former spouse may not elect to provide a survivor annuity to another individual.

Subsection (a)(7) deals with the situation where there is more than one former spouse entitled to benefits otherwise payable to a former participant under the Foreign Service Pension System. This subsection provides that the maximum payable pursuant to this subsection, i.e., in the absence of a court order or spousal agreement, is the difference between 50 percent of the total benefit and the aggregate payable under this subchapter to all others.

Subsection 861(b) deals with survivor benefits to former spouses married to a participant for the same periods as specified in subsection 861(a)(1).

Subsection (b)(1) authorizes payment to a qualified former spouse of a share of survivor benefits otherwise payable to a surviving spouse unless a court order or spousal agreement governs the distribution of survivor benefits.

Subsection (b)(2) provides that the share payable to a former spouse shall be equal to 100 percent of the benefits payable to a surviving spouse if the former spouse was married to the deceased for the entire period of the deceased's creditable service. If the marriage did not endure throughout the creditable service, a pro rata share of 100 percent of the survivor benefit would be payable to the former spouse.

Matters such as reduction of the member's annuity to provide the survivor annuity, deposits, commencement, termination, and maximum payable in the event of more than one claim not dealt with in this subchapter will be governed by the corresponding rules for survivor benefits to former spouses under chapter 84, title 5, U.S. Code pursuant to section 851 establishing the Foreign Service Pension System.

Subsection 861(c) prohibits a participant from making an election concerning payment of annuity or thrift account that would diminish benefits provided to a former spouse pursuant to this section or a spousal agreement.

Subsection 861(d) covers the situation where a member becomes entitled to benefits under both the Foreign Service Retirement System and the Foreign Service Pension System and has a former spouse at the time of transfer to the latter System. In the common situation where benefits are apportioned pursuant to a court order or spousal agreement, the intent may be to provide a pro rata share distribution but the language of the instrument may base the share on length of the marriage during service creditable only under the Retirement System, and not under the Pension System. This will provide an especially large share of the Retirement System benefits. If such an order or spousal agreement is not amended, it would not be fair to provide, under this section, an additional pro rata share of Pension System benefits to the former spouse. The purpose of subsection (d) is to prohibit this possibility.

Similarly, in the case where a former spouse is entitled to a pro rata share of Retirement System benefits based on years married during the entire Government career, it would be unfair not to provide the former spouse the same share of Pension System benefits. Subsection (d) serves this purpose. A related amendment is made to existing sections of the Act by section 404. The purpose is to assure that two former spouses married for the same period to members who have identical careers, one of whom transfers to the new Pension System and the other remains under the old Retirement System, will each receive the same share of benefits under this chapter, if payments are based on pro rata share distributions.

Subsection 861(e) authorizes payment of a survivor annuity under subchapter IV, chapter 84, title 5, to a former spouse following the death of a participant during active service or after separation with entitlement to a deferred annuity, but before commencement of the annuity. Payment would be made provided the deceased left with the Secretary of State a valid spousal agreement providing for such survivor annuity.

Section 862 defines "spousal agreement" as an authenticated agreement between a participant and a spouse or former spouse. A participant who is currently married may not enter into a spousal agreement with a former spouse without the consent of the current spouse. A spousal agreement may be used to specify the level of benefits, otherwise payable under this subchapter, that will be paid to a spouse or former spouse.

Table of contents

Section 416 of the Act amends the table of contents in section 2 of the Foreign Service Act of 1980 to reflect amendments made by the Act.

Effective date

Section 417(a) makes the Secretary's authority to regulate, granted by the Act, effective upon enactment to facilitate implementation of the new System.

Section 417(b) makes the amendment concerning election of survivor annuity during the 18-month period after retirement added by section 413 effective 3 months after enactment and apply in the same manner as the similar amendment affecting annuitants under CSR in the Act of February 27, 1986.

TITLE V—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND RELATED MATTERS

Title V addresses Central Intelligence Agency retirement and related matters. Title V consists of sections 501 through 506 amending the Central Intelligence Agency Retirement Act of 1964 for Certain Employees and title 5 of the United States Code and section 507 making related changes.

Section 501. References

Section 501 of the Act amends the CIA Retirement Act of 1964.

Section 501(1) amends section 201(c) of the CIA Retirement Act to make clear that the provisions of section 201(c), which provide for

the finality and unreviewability of Director of Central Intelligence (DCI) administration of the CIA Retirement Act, do not override the provision of section 305(d) of the CIA Retirement Act (added by section 506) which permits CIA regular FERS employees to appeal certain adverse retirement determinations made by the DCI to the Merit Systems Protection Board and the federal courts in accordance with section 8461(e) of title 5 (as added by section 101 of the Act).

Section 501(2) replaces the phrase "this Act" each place it appears in Title II of the CIA Retirement Act with the phrase "this title" (except in two specified sections), which is necessitated by the addition of a new Title III to the CIA Retirement Act by section 506 of this Act.

Section 501(3) inserts the phrase "under this title" in Title II of the CIA Retirement Act after the phrase "payable from the fund" (meaning the CIA Retirement and Disability Fund) each place it appears in the title, which is necessitated by the addition of a new Title III to the CIA Retirement Act by section 506 of this Act.

Section 502. Contributions to the CIA retirement and disability system

Section 502 amends section 211 of the CIA Retirement Act of 1964.

Section 502(1) amends section 211 of the CIA Retirement Act to provide for an exception from the CIARDS contribution requirement of seven percent of basic salary contained in section 211(a) for participants described in new section 211(d) of the CIA Retirement Act as added by section 502(2).

Section 502(2) adds to section 211 of the CIA Retirement Act a new subsection (d) providing for contributions to the CIA Retirement and Disability Fund by CIARDS participants subject to title II of the CIA Retirement Act before January 1, 1984, whose service is employment for purposes of Title II of the Social Security Act and the Social Security tax provisions of the Internal Revenue Code but whose service is not creditable service under the new Federal Employees' Retirement System. Such individuals would be CIARDS annuitants (who were participants before January 1, 1984) who are recalled to service after a one-year break in service, political appointees, or individuals described in section 301(c)(1) of the CIA Retirement Act. The Committee intends that this provision not apply to any individuals other than individuals who fall within one of these categories. The contribution due to the CIA Retirement and Disability Fund from such an individual is equal to seven percent of basic pay, less the amount of Social Security (OASDI) taxes deducted and withheld from basic pay.

Section 503. Offset of annuity by amount of Social Security benefits

Section 503 amends section 221 of the CIA Retirement Act of 1964 by adding a new section 221(p). Section 221(p) provides that the annuity payable under CIARDS to an individual described in section 301(c)(1) of the CIA Retirement Act (as added by section 506 of this Act) shall be offset by the amount of the individual's Social Security benefits, in the manner provided by section 8349 of title 5, United States Code (as added by section 201(b) of this Act). An indi-

vidual described in section 301(c)(1) of the CIA Retirement Act is one who separates, or has separated, from Federal service after having been a CIA employee subject to CIARDS and having completed at least 5 years of civilian service creditable under CIARDS. The Social Security offset under subsection 221(p) does not apply to the annuity of an individual described in section 301(c)(1) who has elected to participate in the new FERS.

Section 504. Thrift Savings Fund participation by participants in the CIARDS

Section 504 adds a new section 293 to the CIA Retirement Act of 1964. Section 293 permits CIARDS participants to remain in CIARDS and to elect to paticipate in the Thrift Savings Plan on the same basis as CSRS participants may remain in the CSRS and elect to participate in the Thrift Savings Plan under section 8351 of title 5, United States Code (as added by this Act). Sections 8461 (k) and (m) of title 5, United States Code (as added by this Act) apply with respect to contributions to the Thrift Savings Plan, and resultant earnings by CIA employees who have elected, while remaining in the CIARDS or the CSRS, to participate in the Thrift Savings Plan. This ensures that the DCI will handle all administration with respect to CIARDS and CSRS participants who have elected to participate in the Thrift Savings Plan.

Section 505. Alternative forms of annuities

Section 505 adds a new section 294 to the CIA Retirement Act of 1964 to authorize the DCI to provide by regulation for alternative forms of annuities for CIARDS participants to elect upon retirement. To the maximum extent practicable, the regulations and the alternative forms of annuities must meet the requirements prescribed in section 8343a of title 5, United States Code (as added by this Act). The DCI must submit the regulations to the intelligence committees of the Congress before they take effect.

Section 506. Participation in the Federal Employees' Retirement System

Section 506 enacts a new Title III of the CIA Retirement Act of 1964 for Certain Employees, consisting of sections 301–307.

Section 301 of the CIA Retirement Act provides for application to certain CIA employees of the Federal Employees' Retirement System established under chapter 84 of title 5, United States Code (as added by section 101 of this Act).

Section 301(a) provides that the FERS applies to all Agency personnel any of whose service after December 31, 1983 is employment for purposes of Title II of the Social Security Act and the Social Security tax provisions of the Internal Revenue Code, except as provided in subsections 301 (b) and (c).

Section 301(b) provides that CIARDS participants who were CIARDS participants on or before December 31, 1983, and who have not had a one-year break in service then, are not subject to the FERS, without regard to whether they are subject to Title II of the Social Security Act.

Section 301(c) provides that the FERS does not apply to an individual who separates, or has separated, from Federal service after

having been a CIA employee subject to CIARDS and having completed at least 5 years of civilian service creditable under CIARDS, unless the individual elects to become subject to the FERS.

Section 301(d) provides that the provisions of chapter 84 of title 5 (as added by section 101 of this Act), which establishes the FERS, apply to CIA employees covered by the FERS, subject to any exceptions and special rules provided in Title III of the CIA Retirement Act with respect to such CIA employees.

Section 302 of the CIA Retirement Act provides special rules for CIA FERS section-203 criteria employees.

Section 302(a) provides that CIA employees subject to the FERS who are designated by the DCI under the criteria prescribed in section 203 of the CIA Retirement Act shall be treated for purposes of their retirement benefits and obligations under the FERS as if they were law enforcement officers as defined in section 8401(17) of title 5, United States Code (as added by section 101 of this Act). The Committee emphasizes that CIA personnel are not law enforcement officers, and indeed, are prohibited by section 102(d)(3) of the National Security Act from exercising law enforcement powers (except for CIA Security Protection Service personnel who have law enforcement powers under section 15 of the CIA Act of 1949 within CIA installations). The CIA FERS section-203 criteria employees are merely to be treated as if they were law enforcement officers for purposes of determining their FERS retirement benefits and obligations. A section-203 employee, like a law enforcement officer, is required to pay the additional 0.5 percent of pay for these preferential benefits. However, service prior to the date the Director designates such individual as a section-203 employee is not subject to the additional 0.5 percent contribution. The criteria of section 203 of the CIA Retirement Act to which the section refers permit designation of CIA FERS employees for retirement treatment equivalent to law enforcement officers if the CIA employees' duties are "(i) in support of Agency activities abroad hazardous to life or health or (ii) so specialized because of security requirements as to be clearly distinguishable from normal government employment."

Section 302(b) provides that the voluntary retirement provisions applicable to CIARDS participants under section 233 of the CIA Retirement Act also apply to CIA FERS section-203 criteria employees and that the mandatory retirement provisions applicable to CIARDS participants under section 235 of the CIA Retirement Act also apply to CIA FERS section-203 criteria employees, except that the applicable retirement benefits are those specified for such special category employees under the FERS in chapter 84 of title 5, United States Code. Section 233 of the CIA Retirement Act permits voluntary retirement by an employee who is at least 50 years of age and has rendered 20 years of service provided the employee has not less than ten years of Agency service, of which at least five years shall have been service after designation, or shall have been service prior to designation consisting of duties meeting the criteria prescribed in section 203 of the CIA Retirement Act. Section 235 of the CIA Retirement Act permits mandatory retirement of a designated employee who has completed at least 25 years of service, or who has completed 20 years of service and is at least 50 years of age, provided such employee has not less than ten years of Agency

service, of which at least five years shall have been service after designation, or shall have been service prior to designation consisting of duties meeting the criteria prescribed in section 203 of the CIA Retirement Act. Section 235 also provides for automatic separation from the Agency at age 60 of a section-203-designated Agency employee receiving compensation at less than the GS–18 level and for automatic separation of such an employee at age 65 if such employee is receiving compensation at the GS–18 level or above, subject to extensions by up to a total of five years by the DCI when it is in the public interest. A section-203-designated Agency employee who is automatically separated at age 60 or 65 receives retirement benefits under the applicable retirement system if the employee has completed five years of Agency service.

Section 302(c) provides that the recall provisions applicable to CIARDS participants under section 271 of the CIA Retirement Act also apply to CIA FERS section-203 criteria employees, except that a CIA FERS section-203 criteria employee makes contributions during recall service as provided in section 8422 of title 5, United States Code (as added by section 101 of this Act). When a CIA FERS section-203 criteria employee recalled to service subsequently reverts to a retired status, his FERS annuity is redetermined.

Section 303 provides a special rule for use in determining the FERS annuity of a retiring CIA employee who is not a FERS section-203 criteria employee and who has served outside the United States during his Agency service. The portion of such annuity relating to service abroad performed by such employee after the effective date of the Federal Employees' Retirement System Act of 1986 is based on the higher accrual rate set forth in section 8415(d) of title 5, United States Code (as added by section 101 of this Act), while the portion of the annuity of such employee relating to other service is based on the normal FERS accrual rate applicable to the employee's other service. The Committee provided the accrual rate increase for periods of service abroad for regular CIA FERS employees because such employees, during their service abroad, perform work substantially similar to that of FERS section-203 criteria employees, and should thus enjoy equivalent pension accrual rights during the period as a matter of equity.

Section 304 provides special rules relating to certain former spouses of certain CIA personnel. The Committee's intention is to preserve the existing regime of benefits for former spouses of CIA personnel, subject to necesary technical changes. The term "former spouse" as defined in the CIA Retirement Act (section 204(b)(4)) incorporates the requirement, applicable throughout the new Title III of the CIA Retirement Act that, to be considered a "former spouse," the former wife or husband of a CIA employee must have been married to the CIA employee for not less than 10 years of Agency service, at least 5 years of which were spent outside the United States by both the employee and the spouse (the "10/5 requirement"). As a result of section 304, CIA FERS employees' former spouses, who meet the 10/5 requirement, receive former spouses' benefits analogous to those received by CIA CIARDS and CSRS employees' former spouses who met the 10/5 requirement. Thoughout the discussion below of this section, unless the context indicates otherwise, the term "former spouse" when used in refer-

ence to a CIA employee's former spouse, means only a former wife or husband who satisfies the 10/5 requirement.

Section 304(a) provides that the former spouse provisions in chapter 84 of title 5, United States Code (as added by section 101 of this Act) do not apply to a CIA FERS employee who has a former spouse meeting the 10/5 requirement. Instead, the special rules provided in section 304 apply to such an employee and former spouse. For a CIA FERS employee whose former spouse did not meet the 10/5 requirement, the normal former spouses provisions of chapter 84 of title 5 (as added by section 101 of this Act) would apply.

Section 304(b) provides that the provision in section 221(b)(1)(C) of the CIA Retirement Act for a joint employee/former spouse waiver of a survivor annuity by spousal agreement applies with respect to the survivor annuity for a CIA FERS employee's former spouse under section 304(c)(2).

Section 304(c) provides that certain specified provisions of the CIA Retirement Act of 1964 relating to CIA CIARDS employees apply equally to CIA FERS employees with respect to former spouses. The specified provisions made applicable deal with computation of annuities for former spouses, election of survivor benefits for former spouses, sharing of discontinued service (i.e., lump sum) benefits with former spouses, and the effect of payments under spousal agreements or court orders.

Section 304(d) provides technical special rules with respect to computation of annuities for CIA FERS employees' spouses in accordance with section 222(a) of the CIA Retirement Act as made applicable by subsection 304(c). The special rules are necessary to take account of the recall and reemployment situations of CIA FERS employees and to take account that CIA FERS employees' contributions belong in the Civil Service Retirement and Disability Fund rather than the CIA Retirement and Disability fund to which CIA CIARDS participants contribute.

Section 304(e) provides special rules relating to the survivor annuities of CIA FERS employees' former spouses under subsections (b) and (c) of section 222 of the CIA Retirement Act as made applicable by section 304(c). The special rules adjust the application of the CIA Retirement Act provisions made applicable to CIA FERS former spouses provisions in light of the former spouses provisions of chapter 84 of title 5, United States Code (as added by section 101 of this Act) with respect to percentage of employee annuity used in calculating former spouse survivor benefits, the employee annuity base used in such calculation, survivor annuity election, aggregation of multiple survivor annuities, and employee contributions to fund elected survivor annuities.

Section 304(f) provides for computation of the reduction of a CIA FERS employee's annuity to provide survivor annuities in the manner provided by section 8419(a) of title 5, United States Code (as added by section 101 of this Act).

Section 304(g) provides that the entitlement of a retired CIA FERS employee's former spouse to a portion of the employee's annuity extends to any annuity supplement the employee receives under section 8421 of title 5, United States Code (as added by section 101 of this Act).

Section 305 provides that section 201(c) of the CIA Retirement Act, which provides for the finality and unreviewability of DCI administration of the CIA Retirement Act, applies to administration of FERS by the CIA with respect to CIA employees, except that regular CIA FERS employees may appeal certain adverse retirement decisions made by the DCI to the Merit Systems Protection Board and the Federal courts as provided in section 8461(e) of title 5, United States Code (as added by section 101 of this Act). Subsection 8347(n) of title 5, United States Code (as amended by this Act) contains a provision similar with respect to finality and unreviewability of DCI administration of the CSRS with respect to CIA employees and similar with respect to appeals of certain DCI decisions by CIA CSRS employees.

Section 306 authorizes the DCI to prescribe in regulations (in consultation with the Director, OPM and the Executive Director of the Thrift Investment Board) appropriate procedures to carry out Title III of the CIA Retirement Act. The DCI must submit the regulations to the intelligence committees of the Congress before the regulations take effect.

Section 307 authorizes the DCI to provide by regulation for the transition from CIARDS to FERS for CIARDS participants electing to participate in the FERS. Section 307 gives CIA CIARDS employees the same opportunity to elect to participate in the FERS as CIA CSRS employees enjoy under title III of the Federal Employees' Retirement System Act of 1986. The DCI must submit the regulations implementing section 307 to the intelligence committees of the Congress before the regulations take effect.

Section 507. Special retirement accrual for other intelligence personnel

Section 507 extends, to a limited number of civilian employees of the National Security Agency and the Defense Intelligence Agency covered by the CSRS and the FERS, the special retirement accrual benefit provided to CIA regular FERS employees for periods of overseas service by section 303 of the CIA Retirement Act (as added by section 506 of this Act). The Committee concluded that NAS and DIA civilian employees within the groups covered by section 9(b)(1)(B) of the NSA Act of 1959 and section 1605(a) of title 10, United States Code merit treatment equivalent to that afforded CIA regular FERS employees for periods of service abroad because of the nature of their intelligence duties.

ADMINISTRATION OF CSRS AND FERS FOR EMPLOYEES OF THE CIA

Section 206(i) of this Act amends section 8347 of title 5, United States Code, to add a new subsection 8347(n) to provide for CIA administration of the Civil Service Retirement System as it applies to CIA employees. Section 8347(n) provides for CIA administration of the CSRS as it applies to CIA employees in the same way as section 8461 of title 5, United States Code (as amended by this Act) provides for CIA administration of the FERS as it applies to CIA employees. The Committee concluded that CIA administration with respect to CIA employees of all retirement systems applicable to

CIA employees forms an essential part of efforts to improve the protection afforded to intelligence sources, methods and activities.

These provisions (sections 8347 and 8461) provide that the Director of Central Intelligence may, consistent with the administration of CSRS and FERS by the Office of Personnel Management and the Executive Director of the Federal Retirement Thrift Investment Board and to the extent the DCI considers appropriate, administer CSRS and FERS retirement provisions as they apply to CIA personnel. In addition the DCI may, to the extent he considers appropriate, perform with respect to CIA personnel the functions and duties (including with respect to disbursements from the Civil Service Retirement Fund or the Thrift Savings Plan, but not including Thrift Savings Plan investment decisions) of the Director, OPM or the Executive Director, Thrift Investment Board under subchapter III of chapter 83 or under chapter 84, which those officers would otherwise perform. To the extent that the DCI does not exercise his authority to assume the functions and duties of OPM or the Executive Director with respect to CIA CSRS and FERS employees, OPM and the Executive Director would continue to perform such functions and duties with respect to CIA CSRS and FERS employees. Allowing the DCI to assume such functions and duties to the extent he considers appropriate will permit a phased, orderly assumption of retirement administration functions and duties by the CIA.

These provisions also provide that sections 8439(b), 8461(h)(1), and 8474(c)(4) of title 5, United States Code (as added by section 101 of this Act) shall be applied with respect to information relating to CIA personnel in a manner that protects intelligence sources, methods and activities. Section 8439(b) relates to auditing of the Thrift Savings Plan by a qualified public accountant and a report to the General Accounting Office. Section 8461(h)(1) relates to OPM access to information held by other agencies. Section 8474(c)(4) relates to Executive Director, Thrift Investment Board access to information held by other agencies. Although nothing in the Federal Employees' Retirement System Act of 1986, or the amendments made by the Act, impairs or affects statutes (such as section 102(d)(3) of the National Security Act of 1947 and sections 6 and 8 of the CIA Act of 1949) and Executive Orders (such as Executive Orders 12333 governing intelligence activities and 12356 governing national security information) regarding protection of intelligence sources, methods and activities, the Committee believed it appropriate to emphasize the requirement for such protection because certain provisions of chapter 84 refer specifically and address the issue of access by one agency to information held by another agency. Security practices, including clearance requirements, normally applicable to intelligence information will apply in the administration of sections 8439(b), 8461(h)(1) and 8474(c)(4) of title 5 as they are applied with respect to CIA.

TITLE VI—MISCELLANEOUS PROVISIONS

Section 601. Annuities for survivors of District of Columbia judges

This section amends sections 1567 and 1568 of title 11 of the District of Columbia Code to modify the judicial survivor annuity ben-

efits payable for individuals who first become eligible for annuities on or after the effective date of this Act. The net effect is to increase both contribution rates and benefit formulas.

TITLE VII—AUTHORIZATION OF APPROPRIATIONS; EFFECTIVE DATES

Section 701. Authorization of appropriations for certain expenses of the Federal Retirement Thrift Investment Management System

This section provides for a temporary alternative funding and authorization of appropriation for the expenses incurred in the administration of the Federal Retirement Thrift Investment Board for fiscal years 1986 and 1987.

Section 702. Effective dates

Subsection (a) provides that, except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on January 1, 1987.

Subsection (b) provides that the following provisions are effective upon enactment:

(1) Subchapter VII of chapter 84 of title 5, United States Code, as added by section 101 of this Act, which establishes the Federal Retirement Thrift Investment Management Systems;

(2) Section 305, title III of this Act, relating to extension of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983;

(3) The amendments made by sections 204 and 205 of this Act, concerning alternative forms of annuities and retirement counseling programs;

(4) Section 701 of this Act concerning appropriations for expenses of administering the Thrift Plan; and

(5) Sections 505 and 601 of this Act and the amendments made by section 601, concerning the Central Intelligence Agency Retirement and Disability System and annuities for survivors of District of Columbia judges.

Subsection (c) provides that for purposes of the first cost-of-living adjustment under subsection (b) of section 8462, the quarter ending September 30, 1986, shall be deemed the base quarter for a year in which an adjustment under such subsection was made.

FEDERAL EMPLOYEES' RETIREMENT SYSTEM (FERS)
P.L. 99-335, enacted June 6, 1986

1. BASIC ANNUITY PLAN

A. Eligibility	Federal civilian employees covered by Social Security (generally, those employees hired after December 31, 1983).
B. Employee contributions required (percent of pay)	Contribution for FERS annuity is 1.3% in 1987, 0.94% in 1988-89, and 0.8% after 1989. (The sum of this rate and the Social Security (OASDI) employee rate scheduled each year is 7 percent. No Social Security tax is payable above the earnings base--$42,000 in 1986.)
C. Vesting of retirement benefits	5 years civilian service, provided employee's contributions are not refunded.
D. Salary base	Average of high-3 years salary.
E. Retirement benefit	1% of high-3 pay times years of service, or 1.1% if retiring after age 62 & 20 years svc.
F. Eligibility for retirement	
1. Unreduced	Age 62 & 5 years service, age 60 & 20 years service, or "Minimum Retirement Age" & 30 years service--

Year of birth	Minimum Retirement Age
Before 1948	55
1948	55 & 2 months
1949	55 & 4 months
1950	55 & 6 months
1951	55 & 8 months
1952	55 &10 months
1953 - 1964	56
1965	56 & 2 months
1966	56 & 4 months
1967	56 & 6 months
1968	56 & 8 months
1969	56 &10 months
1970 & after	57

2. Reduced	Minimum Retirement Age & 10 years service.
3. Involuntary	Age 50 & 20 years service, or any age & 25 years service.
4. Deferred vested	Paid to employee separating with 5 or more years of service, if employee contributions were not refunded.

I. BASIC ANNUITY PLAN (continued)

G. Amount of annuity	
1. Unreduced	Based on accrual rate, without reduction.
2. Reduced	Reduced 5% for each year under age 62.
3. Involuntary	Based on accrual rate without reduction. Supplement paid from Minimum Ret. Age to age 62.
4. Deferred vested	Unreduced annuity at age 62 & 5 yrs. service, age 60 & 20 yrs. or Min. Ret. Age & 30 years. Reduced annuity available at Minimum Ret. Age to former employee with 10-29 years service, reduced 5% for each year age is below 62.
H. Supplement payable to age 62	Employee separating after Minimum Retirement Age with 30 years service, or age 60 with 20 years service, gets Supplement to age 62, equal to estimated Social Security benefit attributable to Federal service. Supplement is subject to an earnings test, similar to the test used by Social Security below age 65, reducing Supplement by 1/2 of retiree's earned income above an annual exempt amount ($5,760 in 1986, wage-indexed).
I. Refunds	Option to withdraw contributions at separation with benefits forfeited irrevocably.
J. Cost-of-living adjustments (COLAs)	
1. Annual COLA percentage, based on increase in Consumer Price Index (CPI)	Increase in CPI — Annual COLA percentage Up to 2%.....Same as CPI increase 2% to 3%.....2% 3% or more.....CPI increase minus 1 percentage point
2. Eligibility for COLA	Regular retirees over age 62, or disabled and survivors at any age.
K. Optional forms of benefits available at retirement	1. Joint-&-survivor annuity, automatic if married unless rejected by both spouses. Employee's annuity is reduced 10% to give surviving spouse annuity of 50% of employee's unreduced benefit, plus supplement to age 60 if ineligible for Social Security. 2. OPM may offer alternative options with the same value as basic annuity + Supplement. OPM must offer refund equal to employee's total contributions, with annuity reduced to pay for refund over expected lifetime.

2. THRIFT-SAVINGS PLAN

A. Eligibility	Every 6 months employees have an open season to change contribution rates and investments. New employees may begin contributing at the 2nd open season (6 to 12 months after hire).
B. Contributions by employer and employees, under Section 401(k) of Internal Revenue Code	Employer automatically contributes 1 percent of pay into each employee's account. Employees may contribute up to 10% of pay, with employer matching as follows-- First 3% of pay.....$1.00 per $1.00 Next 2% of pay.....$.50 per $1.00. So employer contributes at most 5% of pay for any employee. Employees covered by CSRS also may contribute up to 5% of pay, with no employer matching, to invest in Fund A (government securities).
C. Vesting	Full and immediate vesting of all except the 1%-of-pay automatic government contribution. This automatic contribution becomes vested at 3 years of service for career civil servants, 2 years of service for non-career SES and political (Schedule C) appointees, Members and Congressional staff.
D. Investments	
1. Employee may elect to invest own account in:	Fund A--Special government securities. Fund B--Fixed-income securities, using insurance company Guaranteed Investment Contracts (GICs), bank certificates of deposit or other private-sector securities. Fund C--Equities, using a stock-index fund (invested in proportion to a diversified common stock portfolio such as the Standard & Poor's 500 or the Wilshire 5000).
2. Management of investment funds	The investment funds are managed by a Board of 5 members appointed by the President, taking into account one recommendation from the Senate and one from the House. Executive Director is responsible for investment operations, employee recordkeeping, etc. Voting rights in connection with common stock owned by the Plan are not exercised.

2. THRIFT-SAVINGS PLAN (continued)

D. Investments (continued)

3. Phase-in of private-sector investment option in early years of the thrift plan:

Contributions in calendar year	Percentage required to be in government securities	
	Employee	Employer
1987	100%	100%
1988	80	100
1989	60	100
1990	40	100
1991	20	100
(After 1991, no funds derived from employee contributions are required to be held in government securities.)		
1992	0	100
1993	0	80
1994	0	60
1995	0	40
1996	0	20
(After 1996, no funds are required to be held in government securities.)		

E. Payout of thrift plan accounts — Options for payout of vested account balance, depending on eligibility for basic annuity--

1. At retirement or disability — Immediate or deferred annuity; payment in a lump sum or over fixed term; transfer to IRA.

2. At termination, if eligible for a deferred annuity — Immediate or deferred annuity; payment after employee becomes eligible to retire, in a lump sum or over fixed term; transfer to IRA.

3. At termination, if not eligible for a deferred annuity — Transfer to IRA. (This option allows transfer to any eligible retirement plan that will allow such transfers, typically an IRA.)

4. During active employment — Employees may apply to borrow funds derived from their own contributions for certain purposes. Program to be established by 1988.

5. At death — All funds are paid to eligible survivors or to beneficiaries as specified in the plan.

3. SURVIVOR BENEFITS

A. At pre-retirement death of employee	If employee had 18 months service, surviving spouse gets lump sum of $15,000 (indexed to CPI) and one-half of employee's annual rate of pay (or high-3 average if higher). Spouse may elect payment as an annuity. If employee had 10 years service, surviving spouse also gets annuity equal to 50% of accrued annuity. These benefits are paid in addition to any Social Security, group life insurance or thrift plan death benefits.
B. At pre-retirement death of former employee entitled to deferred annuity	If former employee had 10 years of service, surviving spouse gets immediate annuity of 1/2 of employee's accrued annuity, reduced actuarially for payment before employee's age age 62 (but disregarding for this purpose any years before minimum retirement age). Surviving spouse may instead elect refund of employee contributions.
C. Children's benefits, payable at death before or after retirement	Annually adjusted amounts, offset by Social Security children's benefits, varying by number of children & whether or not orphaned. In 1986 amount is about $2,800 per child, up to 3 children, or $3,400 if orphaned. Payable to unmarried child up to age 18, age 22 if in school, or any age if disability started before age 18.
D. Optional post-retirement death benefit to spouse or former spouse	Employee's annuity is reduced 10% to provide annuity to surviving spouse. Automatic if married unless rejected by both spouses. Surviving spouse gets-- (1) 50% of employee's unreduced annuity, and (2) supplement paid to age 60, if ineligible for Social Security. Total of (1) + (2) may not exceed CSRS death benefit. At spouse's death, or remarriage before age 55, employee's annuity is restored to unreduced amount.
E. Special provisions for surviving former spouses, or new spouses due to marriage after retirement	Benefits are the same as for surviving spouses, subject to elections, court orders and deposits in certain cases.

4. DISABILITY BENEFITS

A. Administration and eligibility	Disability benefit paid if employee has 18 months of civilian service.
B. Definition of disability	Employee must be unable, because of disease or injury, to render useful and efficient service in the employee's position. Employee will also qualify for Social Security benefits if unable to work in any substantial gainful activity. Employee may not decline reasonable job offer in the same agency and commuting area, at the same pay grade. During disability, total income from work may not exceed 80% of former job's current pay level. Employee may be given physical exams.
C. Disability benefit amounts	
1. In first year of payments	60% of high-3 minus 100% of any Social Security benefit payable to the employee.
2. After 1st year, up to age 62	40% of high-3 minus 60% of initial Social Security benefit payable to the employee, increased by annual COLA percentage (same as allowed for basic annuity at age 62 & over), but not below annuity earned to date.
D. Retirement benefits after disabled employee reaches age 62	Recomputed from basic annuity formula, but limited to benefit payable to individual who gets Social Security (40%-less-60% formula). Employee gets credit for years of disability toward basic annuity formula, and salary for purposes of the high-3 goes up at annual COLA percentage.

5. MISCELLANEOUS PROVISIONS

A. Credited service	
1. Part-time service	High-3 is figured using full-time pay rate, & benefit formula uses pro-rated service.
2. Unused sick leave	Not credited.
3. Military service	To get credit for post-1956 military service, employee must deposit 3% of military base pay for period of service, plus interest if deposit made after January 1, 1989, or two years after date of hire if later.
B. Treatment of special groups of employees	
1. Firefighters, law enforcement officers, air traffic controllers, foreign service & special status CIA employees	Unreduced benefit at age 50 & 20 years of service, or any age & 25 years service. Annuity is 1.7% of high-3 pay times years of service up to 20, 1.0% times years over 20. Supplement paid to age 62, equals estimated Soc.Sec. benefit earned in Federal service, earnings-tested above Minimum Retirement Age. Annual COLA percentage applies at all ages. Employees contribute additional 0.5% of pay.
2. Military reserve technicians	Employee separated due to termination of military status after age 50 & 25 years service gets unreduced annuity with Supplement to 62, earnings-tested above Minimum Retirement Age.
3. Members of Congress and Congressional employees	Unreduced annuity for Members only at age 50 & 20 years of service, or any age & 25 years of service. Annuity is 1.7% of high-3 pay times years of service up to 20, 1.0% times years over 20. Earnings-tested Supplement paid from Minimum Retirement Age to age 62. No COLA to age retirees before age 62. These classes contribute additional 0.5% of pay.
4. Employees of non-appropriated fund instrumentalities	Not covered. Department of Defense is to provide a study of how to give such employees appropriate benefits and portability.

5. MISCELLANEOUS PROVISIONS (continued)

C. Transfers of current employees from CSRS to FERS (including Social Security)	Current employees may elect to transfer to FERS between July 1 and December 31, 1987-- 1. Part of annuity is based on CSRS formula (1.5%, 1.75%, 2.0%) with full CSRS COLA: -- Service counts up to date of transfer, including unused sick leave at date of transfer or retirement date if less. -- High-3 includes all pay increases. -- FERS rules determine age & service when annuity begins and reduction at minimum retirement age with 10-29 yrs. service. 2. Survivor and disability benefits are paid under FERS formulas only. 3. All service counts toward years needed to be eligible for immediate or deferred retirement, survivor or disability benefits. 4. Current law Social Security windfall benefit reduction provision will apply.
D. Treatment of re-hired pre-1984 employees	
1. Employees with break-in-service up to 1 year	Remain out of Social Security and are covered by CSRS. May transfer to FERS including Social Security.
2. Employees with break-in-service over 1 year	Covered by Social Security, and-- a) Those with less than 5 years under CSRS are covered by FERS. b) Those with 5 or more years under CSRS are covered by CSRS with 100% offset of Social Security contributions & benefits attributable to Federal service. They may transfer to FERS & may redeposit contributions under CSRS rules.
E. Transition from interim plan in effect 1984-86	New plan's effective date is January 1, 1987.
1. Employees newly hired on or after January 1, 1984	These employees get credit for all service toward FERS. They enter the thrift plan in January 1987, with initial account balance of 1% of 1984-86 pay plus interest.
2. Employees before January 1, 1984, covered then by Social Security mandatorily	These employees have elected to be under one of three types of coverage: (1) Full CSRS and Social Security. (2) CSRS offset by Social Security. (3) Social Security only. During July-December, 1987, they can choose to continue their current coverage, or elect to be in the CSRS offset by Social Security, or transfer to FERS.

Report No. 86-137 EPW

A RETIREMENT PLAN FOR FEDERAL WORKERS COVERED BY SOCIAL SECURITY: AN ANALYSIS OF THE FEDERAL EMPLOYEES RETIREMENT SYSTEM (P.L. 99-335)

Civil Service Retirement Team
Education and Public Welfare Division

July 21, 1986

MEMORANDUM OF SUBMITTAL

July 21, 1986

TO : Senate Committee on Governmental Affairs
Subcommittee on Civil Service, Post Office and General Services

and

House Committee on Post Office and Civil Service
Subcommittee on Employee Compensation and Benefits

FROM : Dennis Snook
Team Leader, Civil Service Retirement Team
Education and Public Welfare Division

SUBJECT : An Analysis of the Federal Employees Retirement System (P.L. 99-335): A Retirement Plan for Federal Workers Covered by Social Security

We are transmitting to you a final draft of our general report to Congress on the new Federal Employees Retirement Act, signed into P.L. 99-335 on June 6, 1986. We plan to make the report available in multilith form within the next 10 to 14 days.

PREFACE

The following report presents costs and benefit projections for a civil service retirement plan for Federal employees who became covered by social security as a result of the Social Security Amendments of 1983. The plan, called the Federal Employees Retirement System (FERS), was signed into law on June 6, 1986.

The analysis is confined to "new" Federal workers, those who started work after December 31, 1983. All projections are accomplished using an "entry age normal cost" actuarial approach.

This report was prepared by the Congressional Research Service (CRS) Civil Service Retirement Team, a group of analysts with expertise on issues pertaining to the design of a new system for Federal employees covered by social security. The format for presentation and comparison to the Civil Service Retirement System (CSRS) followed in this report was developed to serve the committees as they considered various provisions.

Data for this report were generated from the retirement pension cost and replacement rate models developed by CRS. Certain details of the design, after consultations with the committee staff and with Hay/Huggins Company, Inc., were elaborated by CRS to accommodate the CRS analytic models. The methodology used for the analysis was developed for the study, "Designing a Retirement System for Federal Workers Covered by Social Security," published as Committee Print 98-17

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by the House Post Office and Civil Service Committee. Analysts responsible for sections of this report:

- o Michael Burke, data presentation
- o Tom Gabe, methods and data development
- o Richard Hobbie, capital accumulation plan
- o Geoffrey Kollmann, disability benefits
- o Carolyn Merck, survivor and family benefits
- o Michael O'Grady, methods and data development
- o Mary Pilote, graphics
- o Ray Schmitt, pensions
- o Dennis Snook, retirement benefits; and
- o Edwin Hustead and Michael Sullivan of Hay/Huggins Company Inc., actuarial and technical assistance.

The report is divided into five sections, as listed below:

- o Section I is a general description of the plan.
- o Section II compares the FERS provisions to those of the current CSRS.
- o Section III contains data from the cost projection model for the long-term. No short-term costs are shown.
- o Section IV displays graphically the benefit distributions for affected workers. Tables of the percentage of preretirement salaries replaced by benefits for selected workers retiring in 2030 are also included.
- o Section V is a brief description of the analytical framework, assumptions and actuarial models used to produce the report.

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AN ANALYSIS OF THE FEDERAL EMPLOYEES RETIREMENT SYSTEM (P.L. 99-335): A RETIREMENT PLAN FOR FEDERAL WORKERS COVERED BY SOCIAL SECURITY

I. DESCRIPTION OF THE PLAN

A. Background

This plan is the culmination of nearly three years of intensive congressional effort precipitated by the extension of social security coverage to Federal employment in the Social Security Amendments of 1983. As of January 1, 1984 new Federal workers, returning workers with a break in service of at least one year, the President, Members of Congress, Federal judges, and Executive Branch political appointees became subject to the tax and benefit provisions of social security.

Social security coverage duplicated some existing Civil Service Retirement System (CSRS) benefits. Furthermore, the combined contribution rates of social security and CSRS were scheduled to reach more than 13 percent of pay. In order to rationalize the benefits package, Congress, through the efforts of the House Post Office and Civil Service Committee and the Senate Committee on Governmental Affairs, set about the design of a new system, incorporating social security as the benefit base. A two-year interim arrangement, providing relief from the dual contributions and a temporary benefit structure, was enacted to allow time to design a new system.

The Senate passed a bill providing for a new retirement plan on November 7, 1985. The House committee passed a version on November 14, 1985. Before

passage, the Senate bill was attached as an amendment to an unrelated bill originating in the House committee. The House requested a conference, and the conferees had the substance of both committee approaches before them. The interim provisions were scheduled to expire on December 31, 1985, but an extension through April 30, 1986 allowed the two committees to reach a compromise that combined elements of approaches favored by each. However, agreement was not reached in time to meet the May 1 deadline, and some employees had both contributions withheld from their pay. The excess CSRS contributions are to be refunded to these workers.

The conference reported on May 16, 1986. The report passed the Senate and House on May 20 and May 22, respectively, and was signed as P.L. 99-335 on June 6, 1986. The effective date for the new plan is January 1, 1987. The interim provisions were extended until December 31, 1986.

B. General Design

This pension design is for Federal civil servants who are covered by social security. Workers first hired after December 31, 1983 will automatically participate, as will certain other categories of workers with service before that date. Members of Congress first serving after January 1, 1984 are automatically covered by the new Federal Employees Retirement System (FERS) unless irrevocably electing not to participate. Other Members and employees covered by the current CSRS will be permitted to join during an "open season," July 1 to December 31, 1987. A decision to join is irrevocable.

The general design of the system includes, in addition to social security, a basic defined benefit plan, and a supplemental capital accumulation plan called a "Thrift Savings Plan" (TSP). Workers will be enrolled automatically in

the defined benefit plan. They also will be enrolled in the TSP with a one percent of pay contribution from the employing agencies. In addition, employees may add voluntary contributions of their own to the TSP and receive employer contributions for it. Workers may contribute as much as 10 percent of their salaries to the TSP and have the first five percent of total salary at least partially matched by their employer.

C. Retirement

1. Defined Benefit

A defined benefit plan is one in which a formula and a definition of eligibility determine benefit amounts. In this case, workers earn one percent of the average of their highest three consecutive years of wages for each year of service completed. In addition, workers retiring at age 62 or later with at least 20 years of service will receive an additional 0.1 percent of pay for each year of service. In contrast to the current CSRS, unused sick leave will not be creditable for purposes of computing retirement benefits.

Unreduced benefits from the defined benefit pension will be payable at age 62 with five years of service; at age 60 with 20 years of service; and at the minimum retirement age and 30 years of service. "Minimum retirement age" (MRA) is 55 for workers reaching that age by the year 2002, and increases in six annual steps of two months, reaching 56 in 20009. Beginning in 2021 the MRA again rises by two months a year until the full retirement age (57) is reached in 2027. Reduced benefits are payable to retiring employees past the MRA with 10 years of service but not enough service to be eligible for a full benefit. The reduction is five percent a year under age 62. Workers who leave Federal

employment involuntarily at any age with at least 25 years of service, or after age 50 with at least 20 years of service, will be eligible for unreduced benefits.

Retirees with full benefits between the MRA and age 62 will be paid a supplement approximately equal to the amount of the estimated social security benefit based on Federal service payable to the retiree at age 62. This supplement will be subject to an earnings test: if the retiree receives wages in excess of a similar test applicable to retirees at age 62 under social security ($5,760 in 1986, indexed annually to national wage growth), then the supplement will be reduced one dollar for each two dollars above the exempt limit. A supplement also will be paid to involuntarily separated workers from age 55 to age 62.

Deferred benefits will be payable at age 62 to workers who cease Federal work before retirement, provided they have at least five years of civil service, and do not withdraw their contributions at separation. Deferred benefits are also payable without reduction to workers at the MRA with 30 years of service at the time of separation or at age 60 with 20 years of service at separation. Reduced deferred benefits are payable at age 55 with at least 10 years of service. The reduction is five percent for each year under age 62.

Cost-of-living adjustments (COLAs) will be paid annually based on changes in prices as measured by the Consumer Price Index (CPI), except that regular retirees under age 62 will not receive any increase. The COLA will be equal to the CPI percentage increase, up to two percent. If the CPI increase exceeds two percent, the COLA will equal the CPI change minus one percentage point (but no less than two percent).

Employees can elect at retirement to receive alternative benefits as specified by the Office of Personnel Management (OPM). These alternatives will include an option that pays a lump sum equal to all contributions made while working. The lump sum plus the remaining annuities must be actuarially equivalent to the annuity which would otherwise be paid.

2. Thrift Savings Plan

The FERS incorporates a defined contribution or capital accumulation plan (CAP) as a supplement to the main retirement benefit. In a defined contribution plan an employee accumulates assets in the form of a savings account that can be furnished in either a lump sum or converted to an annuity when the employee retires. In this CAP, called the Thrift Savings Plan (TSP), a program of individual accounts is created for employees. One percent of pay will be automatically contributed to the TSP by the employing agency; additional agency contributions are authorized to partially match employee voluntary contributions. Employees will be permitted to contribute up to 10 percent of their salaries to the TSP, and the employing agency will match the first three percent of pay contributed on a dollar-for-dollar basis, and will match the next two percent of pay contributed, at the rate of 50 cents per dollar contributed. Thus, the maximum matching contribution to TSP by the Federal agency will equal four percent of pay, and the automatic contribution of the agency will add another one percent of pay, so employees contributing five percent or more will receive the maximum five percent contribution from the agency.

While the employee is in Federal service, the accumulated contributions and investment income will be held in the Thrift Savings Fund under the supervision of a five-member Federal Retirement Thrift Investment Board. The board will

provide a statement of account to each participating employee at least once every six months. The board will arrange for an open season every six months to permit employees to change levels of contributions and direction of investments. Employees will be allowed to borrow from their accumulated TSP beginning in 1988 for purchase of a primary residence, educational or medical expenses or financial hardship.

An employee who retires from Federal service, or who leaves before retirement entitled to a deferred annuity, may elect to receive an immediate annuity, an annuity that starts at any later date before age 71, a lump sum payment, or any other option offered by the board. The employee may also elect to transfer the funds to another individual or employer retirement plan which can continue similar tax treatment. Employees will have some discretion in the investment of these accumulating funds. Three choices are available: (1) special government securities, (2) fixed-income securities based upon guaranteed investment contracts, bank certificates of deposit or other private sector securities, and (3) equities, using an automatic investment and reinvestment portfolio based upon a common stock index. These optional investment opportunities are to be phased in over a 10-year period. Private sector investments will be permitted starting in 1988 for a portion of employee funds and, beginning in 1993 for a portion of employer matching funds. After 1996, no funds would be required to be invested in government securities. A special board will manage the TSP.

3. Employee Contributions

Employees participating in FERS will be required to contribute to social security. The tax rate for cash benefits (old age, survivors, and disability insurance (OASDI)) is 5.7 percent of pay in 1986 (6.06 percent beginning in

1988; 6.20 percent beginning in 1990) up to a maximum taxable wage level ($42,000 in 1986) that is indexed to the annual growth in wages as measured for the economy at large. Employees will also contribute 1.3 percent of all pay to the defined benefit plan through 1987, 0.94 percent of pay from 1988-1989, and 0.8 percent of pay in 1990 and after.

The TSP, as mentioned, permits employee contributions of up to 10 percent of pay with the first five percent of pay matched by employer contributions. Thus, those employees fully contributing up to the matching limit of the first five percent of pay will receive the full value of the employer's maximum potential cost for the overall retirement system, and employees contributing less will receive corresponding smaller shares.

Employer costs will be distributed among all employees through social security, the defined benefit plan, and the automatic one percent portion of the TSP. Additional employer costs flow to those employees who make voluntary contributions to the TSP. Employees with salaries below the social security maximum taxable wage base will have to contribute seven percent of pay for the social security payroll tax and the contribution to the defined benefit plan. Since employees must contribute an additional five percent to receive the full matching contribution, they will have to contribute a total of 12 percent of pay to receive the maximum value of the employer contribution. To reach maximum employer compensation, employees with salaries above the maximum social security taxable wage base will pay somewhat smaller rates as a percentage of total salary. CRS estimates that employees with median age wages will pay an average of 9.8 percent of total pay under this plan in 1987: seven percent in required payments for social security and the defined benefit pension plan and 2.8 percent in voluntary payments to the TSP.

D. Disability Benefits

Employees would be eligible at any age for disability retirement after 18 months of creditable service if they are unable, because of disease or injury, to perform useful and efficient service in (1) their current position or (2) a vacant position at the same grade or pay level for reassignment in the same agency and commuting area. Employees applying for disability benefits under the FERS may also apply for disability benefits under social security.

Benefits for the first year of eligibility would be 60 percent of average pay (HI-3) minus 100 percent of any social security payable. After the first year, the benefit would be 40 percent of average pay minus 60 percent of any social security payable. No COLA would be paid for the first year. Thereafter, COLAs would be provided on the same basis as for retirees aged 62 and over. Disabled annuitants under age 60 would be medically examined annually unless the disability were judged permanent. If the annuitant were found to have recovered, the benefits would cease one year after such determination or, if earlier, upon reemployment by the Federal Government.

If in any calendar year an annuitant under age 60 had income from work that equalled at least 80 percent of the current salary of the position from which the annuitant retired, the annuity would cease 180 days after the end of that calendar year.

At age 62 the annuity would be recomputed to the lesser of (1) the FERS disability benefit, calculated as if the annuitant were receiving a social security disability benefit or (2) a recomputed retirement benefit. For the retirement recomputation, the period of disability would be credited toward years of service, and average pay would be increased to reflect COLAs applicable during that period.

E. Survivor Benefits

The survivor benefit plan provides lump sum payments to all surviving spouses of workers who die before retirement, plus, in some cases, annuities to such survivors. Survivors of retired workers are eligible for an annuity if the couple elects the survivor annuity plan. Social security survivor benefits are also payable to surviving spouses who meet the eligibility and benefit criteria of that program. In addition, workers and retirees can provide survivor protection through Federal Employees Government Life Insurance (FEGLI) and by building up funds in the new TSP for annuities or payments.

1. Social Security Survivor Benefits

Under social security, surviving spouses of "fully insured" workers are eligible for spouse survivor benefits if they are over age 59 (49 if disabled). 1/ Social security mother's/father's benefits are paid to surviving spouses of any age if (1) the deceased was fully insured or had at least six quarters of covered employment within the 13 quarters preceding death and (2) the surviving spouse is responsible for the care of a child under age 16 (or disabled) of the deceased worker or retiree. In general, the marriage must have lasted at least nine months. Benefits are terminated if the survivor remarries before age 60.

1/ To be fully insured, the worker must have had at least one quarter of covered employment for each year between age 21 and age 62 or, if earlier, the age at death. Thus, for example, no survivor benefit would be paid on behalf of someone who dies at age 45 if he/she had been working only since age 40, although a mother's/father's benefit would be paid as long as there was a child under age 16 or disabled.

A surviving spouse of an insured worker may also be eligible for social security mother's/father's benefits or widow(er)'s benefits, although such benefits would be reduced if the survivor had earnings above the social security earnings limits. Plan benefits end if the widow(er) remarries before age 55.

2. Preretirement Death: Retirement Plan Benefits

At the death of a married employee with at least 18 months of Federal service, the surviving spouse will be eligible for:

1. A one-time lump sum payment of $15,000 in 1987 (indexed annually to the CPI) plus an amount equal to one-half of the deceased employee's annual rate of pay (or the survivor may elect an annuity based on these lump sums), plus,

2. if the deceased worker had at least 10 years of Federal service, a survivor annuity equal to 50 percent of the accrued annuity. The annual accrual rate is 1.0 percent of high-three times years of service if the worker was under age 62 and 1.1 percent if the worker was age 62 or older.

3. Postretirement Death: Retirement Plan Benefits

The plan will automatically provide postretirement survivor benefits to the spouses of retirees by reducing the annuity of retirees by 10 percent of the monthly annuity. This spouse survivor benefit may be waived only if the spouse provides written, notarized consent. If, after retirement, the retiree is widowed or divorced, the annuity will be raised to the full level, without the reduction for survivor benefits, unless otherwise stipulated by a court order pursuant to a divorce settlement.

When a surviving spouse is under age 60 and does not qualify for either a social security mother's/father's benefit or for a social security widow(er)'s benefit, the annuity from the plan is the lesser of (1) the survivor benefit

calculated under the current CSRS program or (2) 50 percent of the accrued annuity of the deceased (without application of any early retirement reduction) plus a social security "equivalent" (71.5 percent of the Primary Insurance Amount (PIA) under that program). 2/ If the survivor is age 60 or over, age 50-59 and fully disabled, or has a child under 16, the survivor is eligible for benefits from social security plus the basic annuity from the plan, which is 50 percent of the accrued pension of the deceased retiree. However, any social security benefit would be subject to the earnings offset that applies to that program. If the retiree and spouse jointly waive the basic survivor benefit plan (or any alternative that might be allowed under regulation), the only survivor benefit would be social security.

Spouse survivor benefits paid by the plan are indexed in the same manner as benefits for post-age 61 retirees; social security spouse survivor benefits are indexed by the full CPI.

If a married retiree and spouse jointly elect a lump sum return of the contributions at the time of retirement in exchange for a reduced annuity, the survivor annuity is based on that reduced amount.

4. Group Life Insurance

The current FEGLI program will be available to workers covered under the new plan. Benefits are equal to one year's salary rounded to the next higher $1,000 plus $2,000 for all workers over age 45. Benefits are doubled for those 35 or under, and decline gradually to age 45. Benefits are doubled for all

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2/ If a surviving spouse is not receiving social security only because those benefits are offset by earnings, he or she would still be considered qualified for social security and would not be eligible for an annuity calculated under this provision.

workers in cases of accidental death. Workers pay about two-thirds of the cost of this coverage, and may, at full cost, purchase additional coverage.

Under FEGLI, postretirement coverage is also available. Until December 31, 1989, Federal employees retiring before age 65 retain full coverage, at no cost, up to age 65. At age 65, the insurance declines by two percent per month to a minimum of 25 percent of the amount in force at retirement. Retiring employees can elect, at extra cost, to retain up to full coverage after retirement. As of January 1, 1990, all retirees under age 65 will have life insurance premiums withheld from their annuities to retain full coverage until age 65.

5. Children's Survivor Benefits

The child survivor plan under the bill is designed to provide benefits equal to those payable under current CSRS law, offset by any social security children's benefits payable. The social security benefits payable in total to all children in the family will be subtracted from benefits from current CSRS law for children in the family, and the excess, if any, will be payable from the plan.

Under CSRS, children's benefits are payable to children of the deceased until they are age 18 or, if in full-time secondary or postsecondary school or training, through age 21. 3/ No benefits are paid to married children. Disabled children incapable of self-support may continue to receive benefits for life if the disability began before age 18.

3/ If the student's 22nd birthday is before August 31, benefits are paid until the later of July 1 of that year or the 22nd birthday. If the 22nd birthday is after August 31, the student is deemed to become 22 on July 1 of the following year, at which time benefits cease.

Under social security, children's benefits are payable up to age 18 or, if the child is in secondary school, up to age 19. Benefits are payable to disabled children for life or for the duration of the disability.

II. PLAN PROVISIONS

TABLE 1. Plan Provisions

Provision	Current CSRS	Federal Employees Retirement System (FERS)
A. Social Security		
Coverage (old age, survivors, and disability insurance cash benefits (OASDI))	N/A	Employees covered by Social Security Amendments of 1983.
Contributions	N/A	5.7% of pay (6.06% beginning in 1988; 6.20% beginning in 1990) to social security (for OASDI coverage) up to maximum taxable wage base ($42,000 in 1986).
B. Defined Benefit: Retirement		
Basic plan design	Defined benefit.	Defined benefit not "integrated," i.e., it is fully added to social security.
Required employee contributions	7% of total pay.	Through 1987--1.3% of pay; from 1988-1989--0.94% of pay; 1990 and after--0.8% of pay.
Vesting	5 yrs. for retirement.	Same as current law.

TABLE 1. Plan Provisions--Continued

Provision	Current CSRS	FERS
B. Defined Benefit: Retirement (cont'd)		
Salary base	Average of high-3 yrs. salary.	Same as current law.
Retirement benefit formula (accrual rate)	1.5% x first 5 yrs. of service; 1.75% x second 5 yrs. of service; 2.0% x all yrs. of service over 10 yrs.; all x salary base.	1.0% x yrs. of service x salary base; 1.1% if retiring age of 62 or later with 20 or more yrs. of service x salary base.
Unreduced retirement benefits	Age 55 with 30 yrs. of service; age 60 with 20 yrs. of service; age 62 with 5 yrs. of service.	Age 62 and 5 yrs. of service; age 60 and 20 yrs. of service; or "minimum retirement age" (MRA) and 30 yrs. of service. MRA = 1987-2002, age 55; 2002-2008, increases 2 mos. per yr. yr.; 2009-2020, age 56; 2021-2026, increases 2 mos. per yr.; 2027 and after, age 57.
Reduced retirement benefits	N/A	MRA and 10 yrs. of service. Reduced by 5% for yrs. under age 62.
Involuntary early retirement; age and reductions	Age 50 with 20 yrs. of service; any age with 25 yrs. of service. Benefit reduced 2.0% for each yr. under age 55.	Unreduced benefits at age 50 with 20 yrs. of service; any age with 25 yrs. of service.
Deferred retirement	At least 5 yrs. of service; accrued benefit payable at age 62.	Unreduced benefit at age 62, if employee had 5 yrs. of civilian service at termination and did not get refund of contributions, or is at MRA and had 30 yrs. of service at separation, or is age 60 with 20 yrs. of service at separation. Reduced benefit available at MRA to vested employee with 10 yrs. of service.

TABLE 1. Plan Provisions--Continued

Provision	Current CSRS	FERS
B. Defined Benefit: Retirement (cont'd)		
Pre-62 supplement for early retirement	N/A	Payable at retirement (but no earlier than MRA) until age 62; approximately equal to projected social security benefit payable at age 62, attributable to Federal service. Supplement is subject to earnings test, similar to the test used by social security at age 62, reducing supplement if retiree has earned income in excess of an annual exempt amount ($5,760 in 1986, wage-indexed).
Refunds; portability	Option to withdraw sums contributed at separation with benefits forfeited, unless redeposit subsequently made.	Option to withdraw contributions, plus interest, at separation with benefits irrevocably forfeited.
Cost-of-living adjustments (COLAs)	Payable to all annuitants. Annually, full rate of inflation measured by CPI.	Payable only to regular retirees over age 62, or disabled (after first yr.) and survivors at any age. Increase in CPI — Annual COLA percentage Up to 2%.....Same as CPI increase 2% to 3%.....2% 3% or more.....CPI increase minus 1 percentage point

TABLE 1. Plan Provisions--Continued

Provision	Current CSRS	FERS
C. Disability Benefits		
Administration and eligibility	Provided from CSRS, if employee has 5 yrs. of service.	Provided from FERS, if employee has 18 mos. of service.
Definition of disability	Unable to do own job or vacant position at same grade or pay level in same agency and commuting area.	Same as current CSRS.
Disability benefit amounts	Annuity earned at onset, or if greater, the lower of (a) 40% of salary base, or (b) the annuity that would be paid projecting service to age 60 at the same salary base. Benefits increased annually by full CPI.	For the first yr. of eligibility, 60% of high-3 pay minus 100% of any social security payable. After the first yr., 40% of high-3 pay minus 60% of any social security payable. No COLAs provided the first yr.; thereafter, COLAs provided on the same basis as for retirees aged 62 and over.
Retirement benefits after disability	Disability pension continues for life if no recovery before normal retirement age.	At age 62 the annuity will be recomputed to be the lesser of: (1) the FERS disability benefit, calculated as if the annuitant were receiving a social security disability benefit, or (2) a recomputed retirement benefit. For the retirement recomputation, the period of disability would be credited toward yrs. of service, and average pay would be increased to reflect COLAs applicable during that period.

TABLE 1. Plan Provisions--Continued

Provision	Current CSRS	FERS
D. Survivor Benefits		
Preretirement death benefit--spouse	Surviving spouse receives: (a) If elected, group life insurance "FEGLI" equal to two x pay to age 35, declining to one x pay at age 45; employees pay two-thirds cost; postal workers receive free coverage.	Surviving spouse receives: (a) Group life insurance as under current law FEGLI.
	(b) At death of worker with at least 18 months of service, survivor receives 55% of the accrued benefit, or, if larger, the lesser of (1) 55% of 40% of salary base, or (2) 55% of the accrued annuity with service projected to age 60 at same high-3. No social security from Federal employment.	(b) At death of worker with at least 18 months but less than 10 yrs. of service, the benefit is a one-time payment of $15,000 (indexed) plus one-half of the deceased worker's final annual pay. If the deceased worker had 10 or more yrs. of service an annuity is also payable equal to 50% of the accrued annuity.
Preretirement death benefit--children	Unrelated to annuity. Annually adjusted amount varies by number of children and whether or not orphaned. In 1985 benefits were about $2,800 per child when less than four children. Children must be (1) unmarried, (2) under age 18 or 22 if in school, or (3) any age and incapable of self-support if disability started before age 18.	The amount in excess, if any, of current CSRS law (to all children in family) over the children's social security benefits.
Postretirement death benefit--spouse	Annuity to married retiree automatically reduced by 2.5% of first $300 monthly plus 10% of remainder unless jointly waived, but	Annuity to retiree reduced by 10% to provide a survivor annuity, unless jointly waived, but raised to unreduced level after death or divorce of the spouse, unless otherwise stipulated in a divorce decree.

TABLE 1. Plan Provisions--Continued

Provision	Current CSRS	FERS
D. Survivor Benefits (cont'd)		
Postretirement death benefit--spouse	raised to unreduced level after death or divorce of spouse (unless otherwise stipulated in a divorce decree). a/	
	Surviving spouse receives: (a) Group life insurance under FEGLI equal to one times pay at time of retirement, declining by 2% per month after age 65 to a minimum of 25% of amount at retirement (unless additional coverage is purchased). Retirees under age 65 pay full premiums after January 1, 1990 until age 65; until January 1, 1990 retirees pay no premium for full coverage under age 65.	Surviving spouse receives: (a) Group life insurance as under current law FEGLI.
	(b) Benefit equal to 55% of the annuity received by the retiree at the time of death, excluding the reduction for survivor election and including any reduction for involuntary early retirement. No social security for Federal employment.	(b) If the the survivor is under age 60 and social security survivor benefits are not payable, benefits are lesser of (1) current CSRS or (2) 50% of accrued annuity plus a social security "equivalent." When social security survivor benefits are payable, FERS pays 50% of the deceased retiree's annuity.
Postretirement death benefits--children	Same as preretirement death.	Same as preretirement death.

a/ Pertains to retirements and divorces occurring after May 6, 1985.

TABLE 1. Plan Provisions--Continued

Provision	Current CSRS	FERS
E. Thrift Savings Plan (TSP)		
Eligibility	N/A	Every 6 mos. employees have an open season to begin or change contributions, or reallocate investments. Newly hired employees may join at the 2nd open season (6 to 12 mos. after hire).
Contributions by employer and employees	N/A	Employer automatically contributes 1% of pay into each employee's account. Employees may contribute up to 10% of pay, with employer matching as follows: 1st 3% of pay.....$1 per $1 Next 2% of pay..$0.50 per $1 So employer contributes at most 5% of pay for any employee. Employees covered by CSRS also may contribute up to an additional 5% of pay, with no employer matching.
Vesting	N/A	Full and immediate vesting of all except the 1%-of-pay automatic government contribution. This automatic contribution becomes vested at 3 yrs. of service for career civil servants, 2 yrs. of service for non-career senior executive service and political (schedule C) appointees, Members and congressional staff.

TABLE 1. Plan Provisions--Continued

Provision	Current CSRS	FERS
E. TSP (cont'd)		
Investments:		
1. Employee may elect to invest own account in:	N/A	Fund A--special government securities. Fund B--fixed-income securities, using insurance company Guaranteed Investment Contracts (GICs), bank certificates of deposit or other private-sector securities. Fund C--equities, using a stock index fund (invested in proportion to a diversified common stock portfolio such as the Wilshire 5000 Equity Index). The following contributions must be invested in fund A: (1) all contributions by employees covered by CSRS; (2) a portion of contributions by employees covered by FERS made through 1991; and (3) a portion of government contributions made through 1996.
2. Management of investment funds	N/A	The investment funds are managed by a board of 5 members appointed by the President, taking into account one recommendation from the Senate and one from the House. Executive Director is responsible for investment operations, employee recordkeeping, etc. Voting rights in connection with common stock owned by the plan are not exercised.

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TABLE 1. Plan Provisions--Continued

Provision	Current CSRS	FERS
E. TSP (cont'd)		
3. Phase-in of private sector investment option in early yrs. of the TSP:	N/A	Contributions in calendar year: Percentage required to be in government securities — Employee / Employer 1987: 100% / 100% 1988: 80 / 100 1989: 60 / 100 1990: 40 / 100 1991: 20 / 100 (After 1991, no funds derived from employee contributions are required to be held in government securities.) 1992: 0 / 100 1993: 0 / 80 1994: 0 / 60 1995: 0 / 40 1996: 0 / 20 (After 1996, no funds are required to be held in government securities.)
Payout of employee retirement accounts	N/A	Employee may elect payout of account balance: (1) as annuity for life or for a fixed term; (2) in cash (at retirement age, death or disability); and (3) as rollover to IRA (at termination of employment). Active employees may not withdraw funds. Program of loans to employees is to be established by Jan. 1, 1988.

TABLE 1. Plan Provisions--Continued

Provision	FERS
F. Miscellaneous Provisions	
Credited service:	
1. Part-time service	Pay rate is increased to full-time rate, and benefit formula uses prorated service.
2. Unused sick leave	Not credited.
3. Military service	To get credit for post-1956 military service, employee must deposit 3% of military base pay for period of service, plus interest if deposit made after 1987, or 2 yrs. after hire, if later.
Treatment of special groups of employees:	
1. Firefighters, law enforcement officers and air traffic controllers	Unreduced benefit at age 50 and 20 yrs. of service, or any age and 25 yrs. of service. Annuity is 1.7% of high-3 pay x yrs. of service up to 20, 1.0% x yrs. over 20. Supplement paid to age 62, equals estimated social security benefit earned in Federal service, earnings-tested above MRA. Annual COLA percentage applies at all ages. Employees contribute additional 0.5% of pay.
2. Military reserve technicians	Employees separated due to termination of military service after age 50 and 25 yrs. of service gets unreduced annuity with supplement to 62, earnings-tested above MRA.
3. Members of Congress and congressional employees	These classes contribute an additional 0.5% of pay. For Members only, unreduced annuity at age 50 and 20 yrs. of service, or any age and 25 yrs. of service. Annuity is 1.7% of high-3 x yrs. of service up to 20, 1.0% x yrs. over 20. Earnings-tested supplement paid from MRA to age 62.

TABLE 1. Plan Provisions--Continued

Provision	FERS
F. Miscellaneous Provisions (cont'd)	
Treatment of special groups of employees: (cont'd)	
4. Employees of nonappropriated fund instrumentalities	Not covered. Department of Defense is to provide a study of how to give such employees appropriate benefits and portability.
Transfers of current employees covered by CSRS to new program	Current employees may elect between July 1 and Dec. 31, 1987 to transfer into the new plan including social security: —credit in current program stops and the employee is fully vested in the credit already earned. Service after the transfer will be credited under the new formula; —all service credit will be applied to the high-3 pay at the time of leaving Federal service; —survivor and disability coverage is from the new plan only; —all service counts toward yrs. needed to be eligible for retirement under CSRS and for vesting, retirement, survivor and disability under the new plan; —unused sick leave is credited under CSRS equal to the smaller of (1) sick leave at the time of transfer, or (2) sick leave at retirement; and —the CSRS cost-of-living increases are applied to the part of the benefit earned before the transfer and the new plan COLAs are applied to the part earned after the transfer.

TABLE 1. Plan Provisions--Continued

Provision	FERS
F. Miscellaneous Provisions (cont'd)	
Treatment of employees rehired, who were not covered earlier by social security:	
1. Employees with break in service up to 1 yr.	Remain out of social security and are covered by CSRS. May transfer to the new plan including social security coverage.
2. Employees with break in service over 1 yr.	Covered by social security, and: --those with less than 5 yrs. under CSRS are covered by the new plan. --those with 5 or more yrs. under CSRS are covered by CSRS. May transfer to the new plan. They will pay a reduced contribution to CSRS equal to the difference between the full CSRS tax applicable to the employee and the OASDI tax. Their CSRS benefit will be reduced by the social security benefit attributable to Federal service.
Transition from interim plan in effect 1984-86:	
1. Employees newly hired on or after Jan. 1, 1984	Receive credit for all service toward new plan. Those covered on Jan. 1, 1987 receive credit toward TSP of 1% of 1984-86 pay.
2. Employees before Jan. 1, 1984, covered then by social security mandatorily	These employees have elected to be under one of three types of coverage: (1) CSRS offset by social security; (2) dual CSRS and social security; or (3) social security only. They can choose during the 6 mo. open season to continue their current coverage, or to elect to be in the CSRS plan offset by social security, or elect to be in the new plan.
3. Employees rehired during 1984-86	These employees are treated the same as later rehires (see section above).

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TABLE 1. Plan Provisions--Continued

Provision	FERS
F. Miscellaneous Provisions (cont'd)	
Alternative Payments	Employees under both CSRS and FERS are to be given a choice of "alternative forms of annuities" with details to be developed by the OPM. One form would be a lump sum payment at retirement of an amount equal to employee contributions, with the annuity actuarially reduced to reflect this lump sum payment.

III. LONG-RANGE COST ESTIMATES

The cost projections represent "entry-age normal cost," a cost presentation that compares the career salaries and lifetime benefits of a statistically representative group of entering employees. The approach can be generally understood as the percentage of every pay check that should be invested, over the total career of each employee in a group of new entrants, to fully pay for all benefits received by that group, including all eligible survivors. Normal cost is formally defined as the present value of future benefits divided by the present value of future compensation. These values are expressed as a percentage of payroll, and provide a consistent measure of relative pension costs over time. All economic assumptions were taken from the 1986 Social Security Trustees' Report under the designation, "Intermediate II-B." The 75-year assumptions were annual increases of: interest, 6.1 percent; wages, 5.5 percent; and prices, 4.0 percent.

The normal cost of social security in a new pension for Federal workers covered by social security can be thought of as the same as the average social security tax charged against Federal payroll over the period of the actuarial projection, stated as a percent of total Federal pay. The CRS pension model has projected this amount to be approximately 11.8 percent of Federal payroll, evenly split between the Federal Government as employer and Federal employees. Of this amount, 11.4 percent of pay is returned to Federal pension system beneficiaries in the form of benefits. The remainder, approximately 0.4 percent of Federal pay, is redistributed to social security beneficiaries outside the

Federal Government through the social security "tilt" to lower-wage workers. Thus, a plan that is projected to have a normal cost to the Federal Government as an employer of 22.9 percent of pay is projected to yield approximately 22.5 percent of pay in benefits for Federal workers. This "loss" of 0.4 percent of pay in costs attributable to Federal compensation through the social security program occurs because Federal workers have average wages covered by social security that are higher than the average for the general social security population, which includes many low-paid, part-time and sporadic jobs.

When the Federal Government is viewed as an employer, the cost of the new pension system is projected on the same basis as it would be for all other employers. The cost of social security to its participants is equal to the taxes paid to the program. However, when the Federal Government measures its revenues and expenditures on a consolidated accounting basis, an expenditure is charged against Federal compensation that does not result in payments to Federal employees. Instead, this money is used to pay benefits from social security that follow from provisions of the Social Security Act and would be paid regardless of any Federal compensation structure. Therefore, on a consolidated revenue and balance basis a cost to one Federal program has an offsetting value to another program. The net impact of this offsetting effect is projected to be 0.4 percent of total Federal pay, and in a consolidated accounting might be subtracted from the Federal employer normal cost of the new plan.

TABLE 2. Entry Age Normal Cost of FERS (P.L. 99-335) by Benefit Normal Cost a/ (% of total Federal Pay)

Defined benefit component:	
Retirement	12.9%
Survivors	1.8
Refunds	0.1
Subtotal: Defined benefits	14.8%
Capital accumulation plan (CAP):	
Automatic	1.0%
Voluntary	5.2
Subtotal: Average capital accumulation	6.2% b/
Subtotal: Social security	11.8
Total: All benefits	32.8%
Less employee contributions:	
Defined benefit	1.2% c/
Capital accumulation	2.8 b/
Social security	5.9 d/
Total: Employer cost	22.9%
Less redistribution of social security cost from Federal employees	0.4% e/
Total cost of benefits for Federal employees	22.5%

a/ Detail may not sum to totals due to rounding. Administrative costs and benefits to special groups are excluded.

b/ Based upon net employer contributions matching average contributions from all workers (including nonparticipants). Employees are not allowed to participate until between six months to one year after first being hired.

c/ Includes approximately 0.3% of payroll for employee contributions to receive credit for military service.

d/ Social security tax as a percent of total payroll.

e/ Approximately 0.4% of payroll of the social security cost is not distributed to Federal workers but flows to relatively lower-income social security participants outside the Federal Government.

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TABLE 3. Comparison of Entry Age Normal Cost Estimates of the Current CSRS to FERS a/

	Current CSRS (baseline)			FERS		
	Employer share	Employee share (average)	Total	Employer share	Employee share (average)	Total
Defined benefit plan.....	25.0%	7.0%	32.0%	13.6%	1.2% b/	14.8%
Social security c/ ...	---	---	---	5.9	5.9	11.8
CAP (voluntary) d/ ...	---	---	---	3.4	2.8	6.2
Full cost e/	25.0%	7.0%	32.0%	22.9%	9.9%	32.8%

a/ All cost figures are rounded to the nearest tenth of a percent. Administrative costs and benefits to special groups are excluded. Under the current CSRS these costs are estimated to be 0.1% and 0.3% of pay, respectively.

b/ Includes contributions for military service credit.

c/ Social security cost is the percentage of total Federal payroll taxable for social security (OASDI).

d/ For employees, cost of the CAP is shown as the average cost. Average cost is determined by dividing the projected sum of all contributions (up to the specified matching limit of 5% for each employee) by payroll. The cost to the government is the employee cost x the matching rate.

e/ Average full cost includes projected average employee contribution and employer match to the CAP.

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TABLE 4. Entry Age Normal Cost of FERS (P.L. 99-335) by Benefit Normal Cost a/ (% of total Federal pay)

Defined Benefit Component:		
Annuities to employees:		
Optional retirement	10.9%	
Involuntary retirement	0.6	
Disability retirement	1.1	
Deferred retirement	0.3	
Subtotal: Retirement	12.9%	
Annuities to survivors of:		
Age retirees	1.1%	
Disability retirees	0.2	
Active employees	0.6	
Subtotal: Survivors	1.8%	
Refunds	0.1%	
Total: Defined benefits	14.8%	
Total: Average capital accumulation	6.2%	b/
Total: Social security	11.8	c/
Total: All benefits	32.8%	
Less employee contributions:		
Defined benefit	1.2%	d/
Capital accumulation	2.8	b/
Social security	5.9	e/
Total: Employer cost	22.9%	

a/ Detail may not sum to totals due to rounding. Administrative costs and benefits to special groups are excluded.

b/ Based upon net employer contributions matching average contributions from all workers (including nonparticipants). Employees are not allowed to participate until between six months to one year after first being hired.

c/ Approximately 0.4% of payroll of the social security cost is not distributed to Federal workers but flows to relatively lower-income social security participants outside the Federal Government.

d/ Includes approximately 0.3% of payroll for employee contributions to receive credit for military service.

e/ Social security tax as a percent of total payroll.

IV. REPLACEMENT RATES

The replacement rates are the projected percentages of gross salaries received in the year before retirement that are replaced by gross benefits in retirement. These benefits and wages have been adjusted to 1985 levels. Workers are shown retiring in the year 2030 after all increases in the social security retirement age for full benefits have been phased in. By 2027, that age for full benefits will be 67, and social security benefits received before that age will be reduced, with a maximum reduction of 30 percent applied to benefits received at age 62, the earliest age of entitlement for old age retirement under the program. Social security benefits shown here are prorated to reflect the proportion of social security benefits earned in Federal employment.

The TSP amounts are fully indexed using the economic assumptions employed; thus, the real values over time are shown. The tables show replacement rates for individuals participating fully in the respective TSP and for those limiting their participation to the automatic (employer-funded) one percent. Maximum annuities imply full participation up to the matching limit throughout the work career; conversely, the "with one percent TSP, no voluntary" line represents workers never contributing additional voluntary savings. Experience from the private sector suggests that most workers would fall between these extremes, varying their participation in response to changing personal or broader economic circumstances.

Retirement figures are shown for representative workers retiring with various ages, periods of service and salaries over time. Inflation protection is

illustrated by displaying benefits at various points after retirement. In each figure, the characteristics held constant are roughly average ones; i.e., an approximate average salary of $30,000 for workers retiring at the approximate average retirement age of 62, after approximately average full careers of 30 years of service.

Differences in the pattern of payments between the present CSRS and social security should be taken into consideration when comparing costs of the current system to costs or replacement rates for a new plan incorporating social security. The value of this difference is approximately two percent of payroll. About two-thirds of the difference is attributable to the portable rights to social security earnings credits that are retained by employees who leave employment with less than a full career. The remainder of the difference, after certain offsets and overlaps are netted, is attributable to dependents' benefits payable under social security but not payable from the current CSRS. These differences in the pattern of payments are distributed across the various benefit components and are thus reflected in lower replacement rates at retirement (excluding benefits from capital accumulation) of about five percent of total benefits attributable to the employer share of total plan costs.

TABLE 5. Gross Percentage of Preretirement Salary Replaced by Postretirement Benefits for Workers Retiring under Current CSRS in the Year 2030

(Final salaries have been adjusted to 1985 dollars)	$15,000	$30,000	$45,000	$60,000	$75,000
Gross Replacement Rates					
10 years of service.....	15%	15%	15%	15%	15%
20 years of service.....	34	34	34	34	34
30 years of service.....	53	53	53	53	53
35 years of service.....	63	63	63	63	63
40 years of service.....	72	72	72	72	72

TABLE 6. Gross Percentage of Preretirement Salary Replaced by Postretirement Benefits for Workers Retiring in the Year 2030

(Final salaries have been adjusted to 1985 dollars)	$15,000	$30,000	$45,000	$60,000	$75,000
Retirement at Age 57 with 30 Years of Service					
At retirement:					
Total rate	64%	60%	56%	53%	52%
(with 1% TSP, no voluntary)	(49%)	(45%)	(42%)	(39%)	(37%)
Pension	28	28	28	28	28
Pre-62 supplement	19	15	12	9	7
OASDI	0	0	0	0	0
TSP (max.)	16	16	16	16	16
Total rate at age 62	62%	57%	53%	50%	48%
(with 1% TSP, no voluntary)	(48%)	(43%)	(39%)	(36%)	(34%)
Pension	24	24	24	24	24
OASDI	22	17	13	10	8
TSP	16	16	16	16	16
Total rate at age 80	58%	54%	50%	47%	45%
Retirement at Age 62 with 10 Years of Service					
At retirement:					
Total rate	22%	20%	20%	19%	18%
(with 1% TSP, no voluntary)	(16%)	(15%)	(14%)	(13%)	(13%)
Pension	9	9	9	9	9
OASDI	6	5	4	3	2
TSP (max.)	6	6	6	6	6

NOTE: Accrual rate of 1% of pay per year of service, or 1.1% for those retiring after age 62 with at least 20 years of service, times the highest 3 years of salary. Pre-62 supplements are based on expected social security benefits and may differ from actual social security. TSPs are indexed to show actual value over time. Totals may not add due to rounding.

TABLE 7. Gross Percentage of Preretirement Salary Replaced by Postretirement Benefits for Workers Retiring in the Year 2030

(Final salaries have been adjusted to 1985 dollars)	$15,000	$30,000	$45,000	$60,000	$75,000
Retirement at Age 62 with 20 Years of Service					
At retirement:					
Total rate	47%	45%	42%	40%	39%
(with 1% TSP, no voluntary)	(36%)	(33%)	(30%)	(29%)	(27%)
Pension	21	21	21	21	21
OASDI	14	11	8	7	5
TSP (max.)	13	13	13	13	13
Retirement at Age 62 with 30 Years of Service					
At retirement:					
Total rate	73%	68%	64%	61%	59%
(with 1% TSP, no voluntary)	(56%)	(51%)	(47%)	(44%)	(42%)
Pension	31	31	31	31	31
OASDI	23	18	14	10	8
TSP (max.)	19	19	19	19	19
Retirement at Age 62 with 35 Years of Service					
At retirement:					
Total rate	86%	80%	75%	71%	68%
(with 1% TSP, no voluntary)	(66%)	(60%)	(55%)	(51%)	(48%)
Pension	36	36	36	36	36
OASDI	27	21	16	12	10
TSP (max.)	22	22	22	22	22

NOTE: Accrual rate of 1% of pay per year of service, or 1.1% for those retiring after age 62 with at least 20 years of service, times the highest 3 years of salary. Pre-62 supplements are based on expected social security benefits and may differ from actual social security. TSPs are indexed to show actual value over time. Totals may not add due to rounding.

TABLE 8. Gross Percentage of Preretirement Salary Replaced by Postretirement Benefits for Workers Retiring in the Year 2030

(Final salaries have been adjusted to 1985 dollars)	$15,000	$30,000	$45,000	$60,000	$75,000
Retirement at Age 62 with 40 Years of Service					
At retirement:					
Total rate	94%	88%	83%	79%	77%
(with 1% TSP, no voluntary)	(72%)	(65%)	(60%)	(56%)	(54%)
Pension	42	42	42	42	42
OASDI	28	21	16	12	10
TSP (max.)	25	25	25	25	25
Retirement at Age 67 with 30 Years of Service					
At retirement:					
Total rate	86%	78%	73%	69%	66%
(with 1% TSP, no voluntary)	(65%)	(57%)	(52%)	(48%)	(45%)
Pension	31	31	31	31	31
OASDI	31	24	18	14	11
TSP (max.)	23	23	23	23	23
Retirement at Age 67 with 40 Years of Service					
At retirement:					
Total rate	110%	101%	94%	89%	86%
(with 1% TSP, no voluntary)	(83%)	(73%)	(67%)	(61%)	(58%)
Pension	42	42	42	42	42
OASDI	38	29	22	17	13
TSP (max.)	31	31	31	31	31

NOTE: Accrual rate of 1% of pay per year of service, or 1.1% for those retiring after age 62 with at least 20 years of service, times the highest 3 years of salary. Pre-62 supplements are based on expected social security benefits and may differ from actual social security. TSPs are indexed to show actual value over time. Totals may not add due to rounding.

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FIGURE 1. Benefit Value at Retirement for Workers with Different Salaries

Gross Replacement Rates

Worker Retiring in the Year 2030
Age: 62
Service: 30 years
Salary: Varies

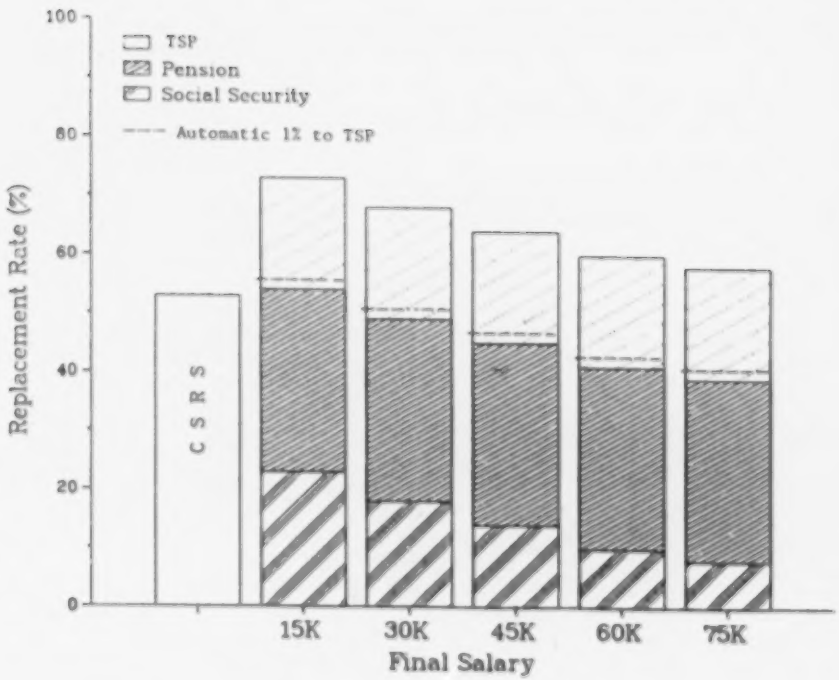

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FIGURE 2. Benefit Value at Retirement with Different Amounts of Service

Gross Replacement Rates

Worker Retiring in the Year 2030
Age: 62
Service: Varies
Salary: $30,000 (adjusted to 1985 levels)

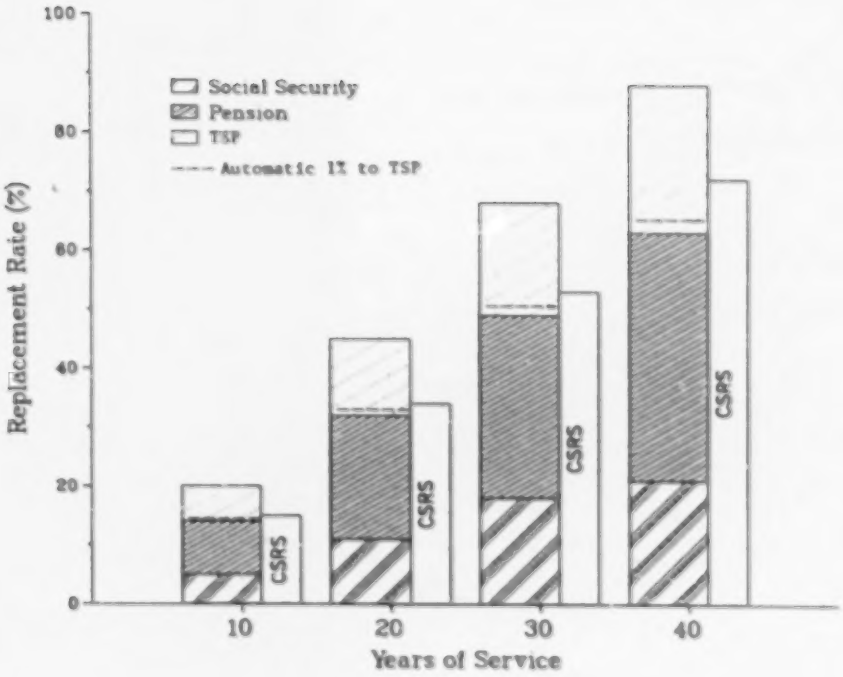

FIGURE 3. Benefit Value at Retirement for Workers Retiring at Different Ages

Gross Replacement Rates

Worker Retiring in the Year 2030
Age: Varies
Service: 30 years
Salary: $30,000 (adjusted to 1985 levels)

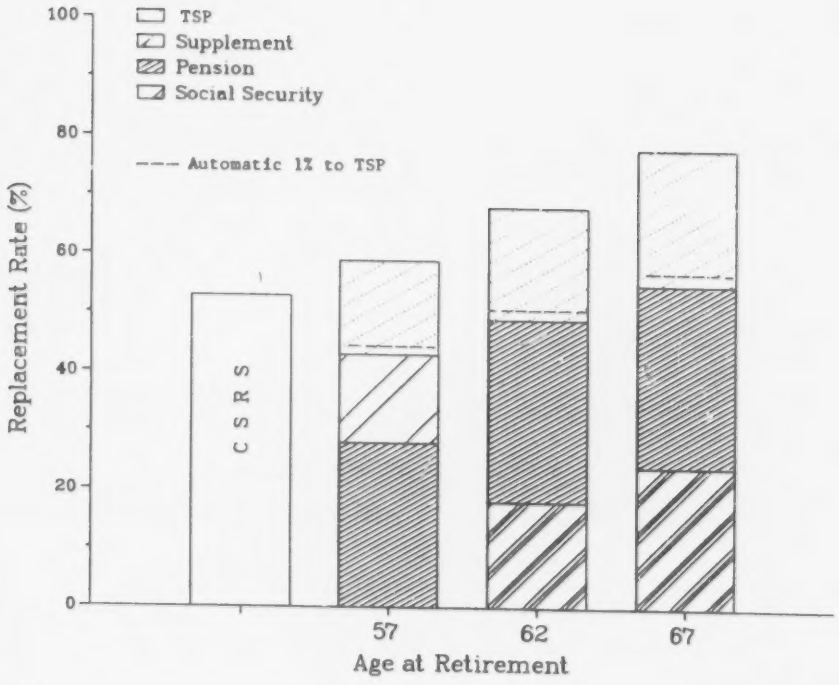

FIGURE 4. Benefit Value at Retirement and After

Gross Replacement Rates

Worker Retiring in the Year 2030
Age: 57
Service: 30 years
Salary: $30,000 (adjusted to 1985 levels)

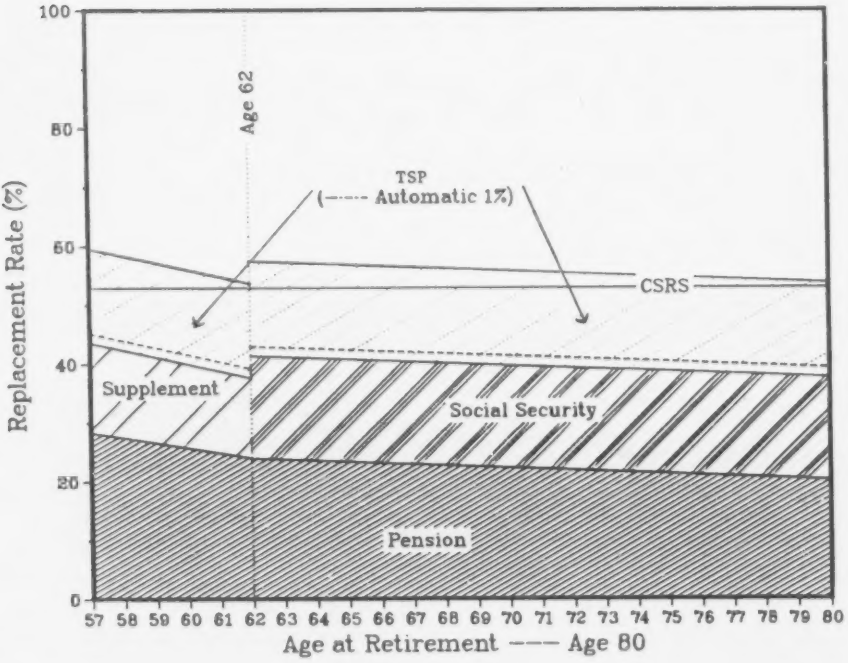

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TABLE 9. Gross Replacement Rates for Totally Disabled Workers, including Social Security Disability Benefits a/

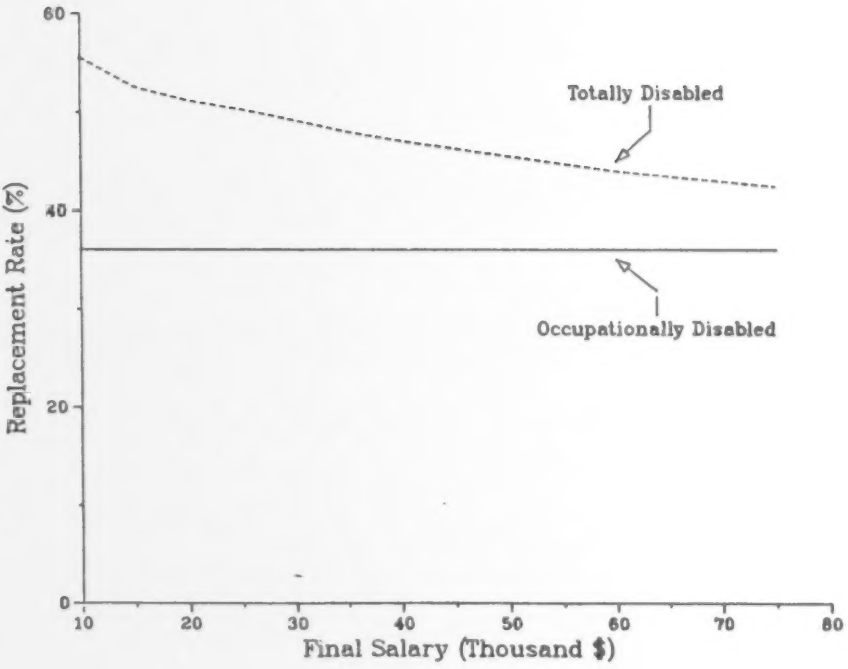
(Final salaries have been adjusted to 1985 dollars)	$15,000	$30,000	$45,000	$60,000	$75,000
Worker Age 40 with 15 Years of Service					
At onset:					
Current CSRS	37%	37%	37%	37%	37%
FERS	56	56	56	56	56
One year after onset:					
Current CSRS	37%	37%	37%	37%	37%
FERS	52	49	46	44	42
At age 62:					
Current CSRS	37%	37%	37%	37%	37%
FERS	50	46	42	39	37
At age 67:					
Current CSRS	37%	37%	37%	37%	37%
FERS	49	45	41	38	36
At age 80:					
Current CSRS	37%	37%	37%	37%	37%
FERS	48	43	39	36	34

a/ Does not include any valuation of contributions to the TSP.

FIGURE 5. Benefit Value for Disabled Workers with Different Salaries a/
(one year after onset)

Gross Replacement Rates

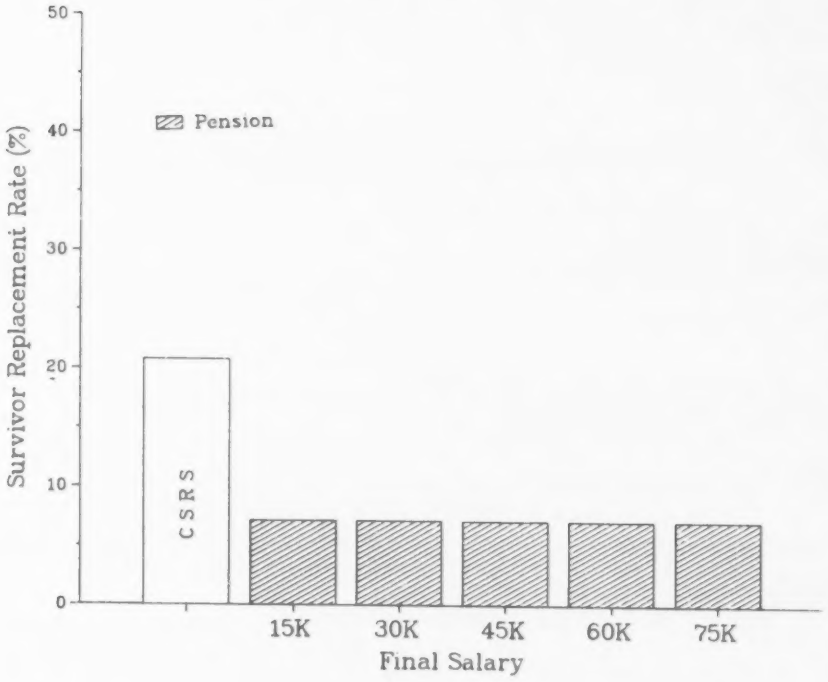
Age: 40
Service: 15 years
Salary: Varies (adjusted to 1985 levels)



a/ Does not include any valuation of contributions to the TSP.

FIGURE 6. Preretirement Death a/

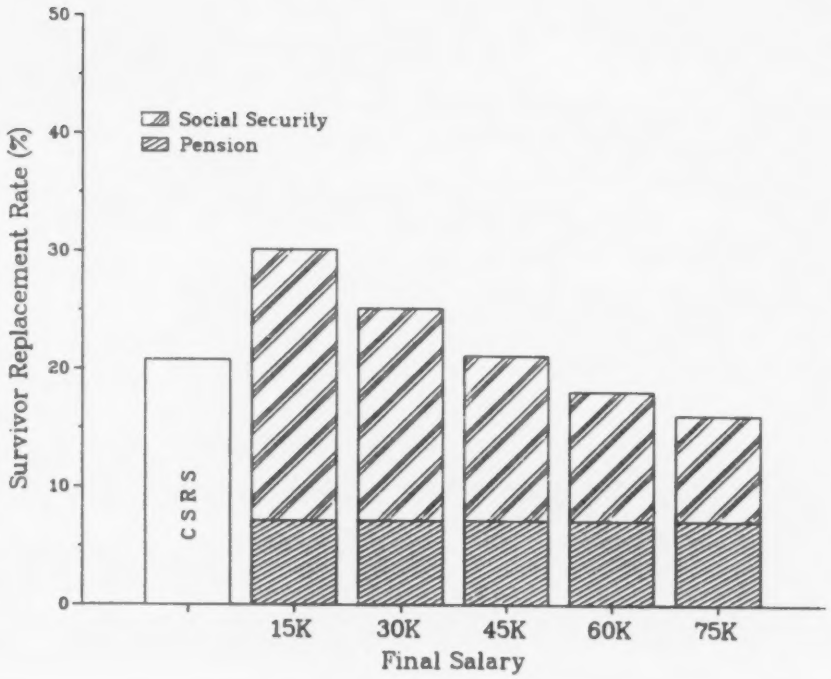
Worker's Age at Death: 40
Service: 15 years
Age of Spouse: Under 60
Children Under Age 16: None



a/ Does not include any valuation of contributions to the TSP, or the lump sum payments of $15,000 plus half of final pay. If taken as an annuity, these amounts could add 5% to 10% to the value of the annuity.

FIGURE 7. Preretirement Death a/

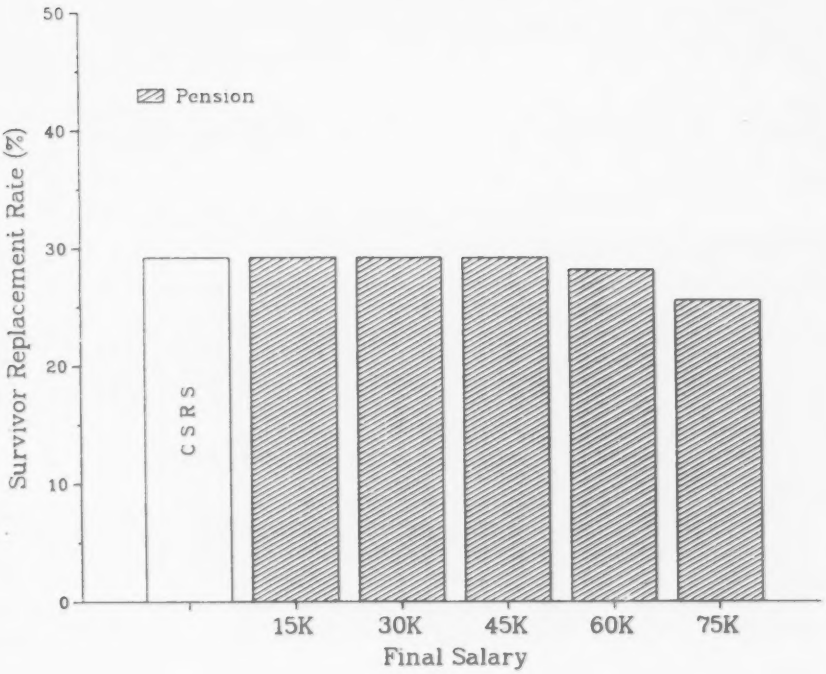
Worker's Age at Death: 40
Service: 15 years
Age of Spouse: Under 60
Children Under Age 16: Two



a/ Does not include any valuation of contributions to the TSP.

FIGURE 8. Postretirement Death a/

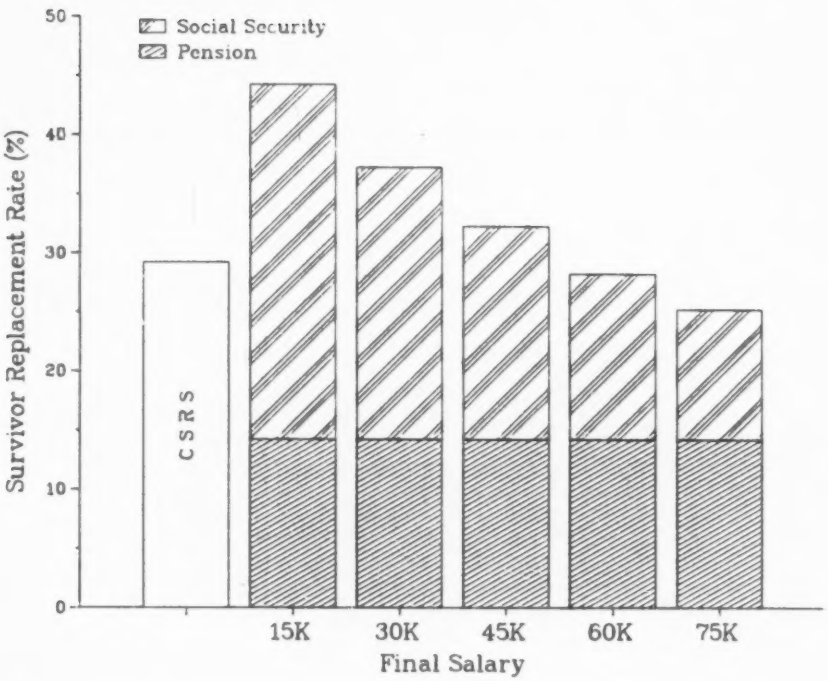
Worker's Age at Retirement: 55
Service: 30 years
Retiree's Age at Death: 62
Age of Spouse when Widowed: 58
Children Under Age 16: None



a/ Does not include any valuation of contributions to the TSP.

FIGURE 9. Postretirement Death a/

Worker's Age at Retirement: 60
Service: 30 years
Retiree's Age at Death: Over 60
Age of Spouse when Widowed: 60
Children Under Age 16: None



a/ Does not include any valuation of contributions to the TSP.

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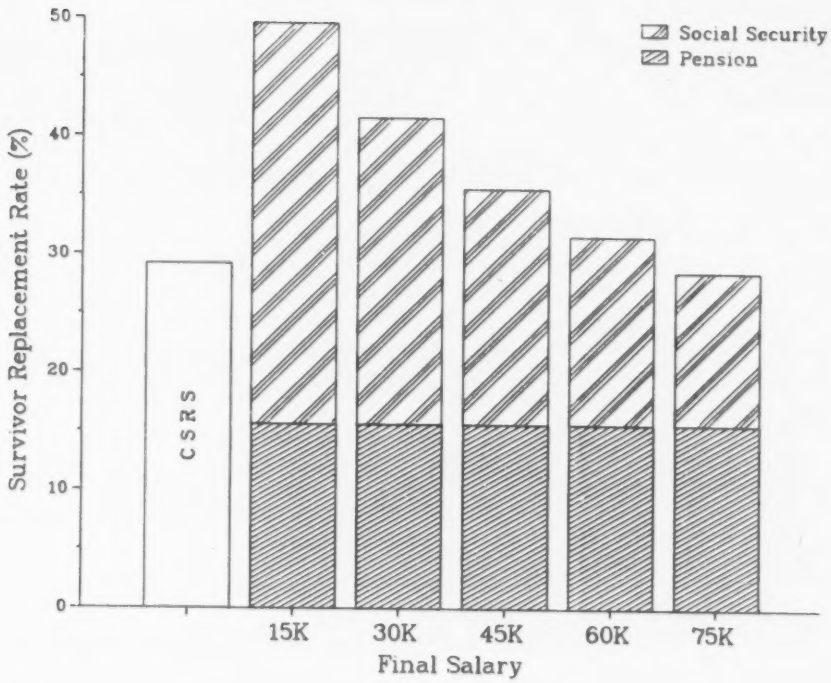
FIGURE 10. Postretirement Death a/

Worker's Age at Retirement: 62
Service: 30 years
Retiree's Age at Death: Over 62
Age of Spouse when Widowed: 62
Children Under Age 16: None



a/ Does not include any valuation of contributions to the TSP.

V. METHODOLOGICAL SUPPORT

A. Cost and Replacement Rate Models

The estimates of retirement costs and benefits presented in this analysis were generated using CRS's cost and replacement rate models. These computer-based actuarial models were developed by CRS with actuarial support and a Pension Valuation Language (PVL) provided under contract by Hay/Huggins Company, Inc., an actuarial consulting firm. It should be noted that these models project future outcomes from assumptions. While such projections are valuable tools for making relative cost and benefit comparisons, it is inappropriate to imply or to seek a degree of accuracy for them that is in principle unattainable.

1. Cost Model

The cost model projects long-term costs of pension designs. The approach used is known as "entry age normal cost," and can be generally understood as the percentage of every pay check that should be invested, over the total career of each employee in a group of new entrants, to pay fully for all benefits received by that group, including all eligible survivors. Normal cost is formally defined as the present value of future benefits divided by the present value of future compensation. These values are expressed as a percentage of payroll, and provide a consistent measure of relative pension costs over time.

2. Replacement Rate Model

The replacement rate model projects the percentage of gross preretirement wages replaced by gross postretirement benefits. This percentage can be shown at retirement and at various ages after retirement, with the latter expressed in values relative to purchasing power at retirement. Capital accumulation replacement rates assume the purchase of an annuity indexed to the assumed rate of inflation.

B. Data and Assumptions

The cost and replacement rate models required the use of certain data and assumptions in order to project cost and benefit outcomes for employees entering work in 1985 and retiring in the year 2030. A profile of the Federal workforce into the future was drawn from data of the current system, and other factors pertaining to costs and benefits were identified and assumptions about the relative weight of those factors were made. Complete documentation of the methodology, data and basis for all assumptions is available from CRS.

1. Demographic Assumptions

Given the order of magnitude of Federal employment, fairly reliable data on the Federal workforce could be obtained, and was used whenever appropriate. The vast majority of the data used to construct a demographic profile of the Federal workforce was provided by OPM. These data included career patterns, mortality and disability rates, probability of leaving a surviving dependent, etc. Certain modifications were made to OPM data that lessen the growth over time in the patterns of career improvement, and social security estimations of future improvements in mortality were also incorporated.

2. Economic Assumptions

All economic assumptions were taken from the 1986 Social Security Trustees' Report under the designation, "Intermediate II-B." The II-B assumptions are most commonly accepted as being neither optimistic nor pessimistic. The assumptions were annual increases of: interest, 6.1 percent; wages, 5.5 percent; and prices, 4.0 percent.

3. Behavioral Assumptions

Changes in plan designs relative to one another will cause changes in behavior which in turn affect plan costs. The changes in assumed rates of retirement, separation, etc., were made by the actuarial consultant, after research and discussions with CRS staff.

4. The Cost of Social Security

Generally, the cost of social security to its participants is the same as the tax that must be paid to the program. For these estimates, the cost of social security is the ratio of social security (OASDI) taxes to total Federal payroll over the 75-year period of the projection, evenly divided between employees and the Federal Government as employer. Under social security II-B assumptions, the benefits and taxes of the program are roughly in balance over that period, if the tax on social security benefits is treated as a revenue to the program. It should be noted, however, that some of the social security taxes on Federal payroll are not received back by Federal workers in the form of benefits because the average of Federal wages covered by social security exceeds the average covered wage in employment outside the Federal Government.

Because the social security formula enhances the benefits of lower-paid workers, approximately 0.4 percent of payroll of the tax credited to social security from Federal wages is redistributed to workers outside the Federal Government. If the Federal Government is viewed, not as an employer, but in its other role as participant in the national economy, in a consolidated accounting, this redistributed amount could be construed as a reduction in the cost of benefits for Federal workers.

Other differences in the pattern of payments between the present CSRS and social security are also taken into consideration when costs or replacement rates for a new plan incorporating social security are compared to the current system. The value of this difference is approximately two percent of payroll. About two-thirds of the difference is attributable to the portable rights to social security earnings credits that are retained by employees who leave employment with less than a full career. The remainder of the difference, after certain offsets and overlaps are netted, is attributable to dependents' benefits payable under social security but not payable from the current CSRS. The sum of these differences in the pattern of payments has been distributed across the various benefit components of the proposal and is thus reflected in lower replacement rates at retirement (excluding benefits from capital accumulation) of about five percent of total benefits attributable to the employer share of total plan costs.

5. Estimated Capital Accumulation Costs

Cost of the CAPs analyzed by CRS depend on the participation rate of individuals. Such rates, expressed as "percent of full participation," are influenced by two features of the plan: The rate at which employee payments to the

CAP are matched by employer payments, and the ceiling on employee contributions eligible for such matching dollars. Some employees will contribute the full amounts permitted by the plan specifications, others only some, still others not at all. The percent of full participation is the net average of full participation after all full, partial, and zero contributions have been combined.

The cost to the Federal Government of the CAPs is established by multiplying the matching rate specified for the plan by the estimated percent of full participation. For example, as a result of recently completed research as to the experience of private sector CAPs, Hay/Huggins Company, Inc. estimated that a plan with a 50 percent employer match of employee contributions to six percent of pay would result in matchable contributions equal to 2.8 percent of Federal payroll. This reflects 48 percent of potential full participation. Multiplying this estimated contribution by the 50 percent matching rate yields an employer cost of 1.4 percent of payroll. Documentation of the method for arriving at the variable used for the capital accumulation cost assumptions is available from CRS.

ANALYSIS BY THE CONGRESSIONAL BUDGET OFFICE

CONGRESSIONAL BUDGET OFFICE
U.S. CONGRESS
WASHINGTON, D.C. 20515

Rudolph G. Penner
Director

June 3, 1986

The Honorable William V. Roth, Jr.
Chairman
Committee on Governmental Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

As requested by your staff, the enclosed tables display the estimated budgetary effects of the Federal Employees' Retirement System Act of 1986, as passed by the U.S. Senate and the House of Representatives. Because the technical amendments contained in S. Con. Res. 142 were agreed to by both Houses, the Act allows certain federal employees to accelerate the commencement of voluntary contributions to the thrift savings plan from July 1987 to January 1987. This change reduces the estimated 1987 deficit, as indicated to you in my letter of May 22, 1986, by some $90 million.

Should the Committee so desire, we would be pleased to provide further details on our estimates.

With best wishes,

Sincerely,

Rudolph G. Penner

Enclosure

cc: The Honorable Thomas F. Eagleton
Ranking Minority Member

ESTIMATED BUDGET DEFICIT EFFECTS OF THE FEDERAL EMPLOYEES' RETIREMENT ACT OF 1986, AS PASSED BY BOTH HOUSES
(By fiscal year, in billions of dollars)

	1987	1988	1989	1990	1991
Estimated Rise in Offsetting Collections a/	-0.40	-1.87	-3.34	-3.84	-4.30
Estimated Revenue Loss b/	0.06	0.35	0.45	0.52	0.63
Estimated Rise in Federal Fund Disbursements	0.01	0.23	0.61	1.01	1.49
Estimated Increase or Decrease (-) in the Deficit	-0.33	-1.29	-2.27	-2.31	-2.18
Estimated Increase in Appropriations for Agency Operating Expenses	1.27	4.47	5.57	6.24	6.94

NOTE: Estimate prepared May 22, 1986. Details may not add to totals because of rounding.

a. Higher offsetting collections represent negative outlays that reduce net budgetary costs.

b. Revenue losses in this table are positive numbers because they increase the budget deficit.

DETAIL OF ESTIMATED BUDGET DEFICIT EFFECTS OF THE FEDERAL EMPLOYEES' RETIREMENT ACT OF 1986, AS PASSED BY BOTH HOUSES
(By fiscal year, in billions of dollars)

	1987	1988	1989	1990	1991
	Estimated Rise in Offsetting Collections (Negative Outlays)				
Employee Thrift Contributions	-0.40	-1.87	-2.24	-2.48	-2.76
Higher Postage Rates to Defray Costs Paid by the U.S. Postal Service	0	0	-1.10	-1.36	-1.54
Subtotal	-0.40	-1.87	-3.34	-3.84	-4.30
	Estimated Revenue Losses a/				
Decreased Payroll Taxes from Changes in Employee Contributions	b/	0.04	0.06	0.11	0.14
Decreased Federal Income Taxes from Participation in the Thrift Plans	0.06	0.31	0.38	0.41	0.49
Subtotal	0.06	0.35	0.45	0.52	0.63
	Estimated Rise in Federal Fund Disbursements (Positive Outlays)				
Investment of Employee Thrift Contributions in Marketable Securities	0	0.10	0.29	0.50	0.77
Rise in Disbursements from Civil Service, Thrift, and Social Security Trust Funds for Lump Sum and Monthly Benefit Payments	0.01	0.13	0.33	0.51	0.73
Subtotal	0.01	0.23	0.61	1.01	1.49

NOTE: — Estimate prepared May 22, 1986. Details may not add to totals because of rounding.

a. Revenue losses in this table are positive numbers because they increase the budget deficit.

b. Estimated under $5 million.

RETIREMENT SYSTEM FOR NEW FEDERAL EMPLOYEES: ILLUSTRATION OF CALCULATION OF SUPPLEMENT

Section 8421(b)(1) of the proposed supplemental retirement system for Federal employees covered by Social Security prescribes the method for computing the supplement to be paid until age 62. The calculation is based on a method commonly used in the private sector and accepted by the Internal Revenue Service. The tables illustrate the calculation of the supplement for two employees retiring at the earliest full retirement age and an employee retiring under the involuntary provisions. Projections use the Congressional Research Service economic assumptions. The method will be explained using the illustration for an employee at the voluntary retirement age with no break in service.

The illustrations are for employees who are born and retire in January. The employees entered Federal service at the beginning of the first year of employment. The proposed legislation does not consider Federal salary in the year of hire, if less than a full year, or the year of retirement, and calculates the benefit as though the employee were age 62 on the first day of the year of retirement. As a result, the calculations will be similar for employees who enter Federal service or leave at other times during the year.

The main problem in determining the supplement is that some facts that will be used in the actual Social Security calculation at age 62 are not known, or are difficult to discover. The actual calculation of the Social Security benefit at age 62 will depend on all salary earned under the Social Security system and the rate of inflation and salary growth until the employee becomes age 62. At age 56, the salary in future years has not been earned and the rates of inflation and general salary growth between retirement and age 62 have not yet occurred. The legislation adopts an approach common in the private sector of creating the fiction that the employee is actually age 62 and assuming that there will be no future earnings or inflation.

Actual Social Security earnings before Federal employment could be discovered but the search would be difficult and most employers use one of the IRS-accepted methods of estimating total earnings. The method used in the proposed legislation is to assume that the salary in years before the first full year of Federal employment would be the earnings in that year reduced by the increase in average Social Security wages in the intervening years.

Similarly situated employees will have the same supplement irrespective of differences in actual earnings before or after Federal employment. The method also ignores any earnings from other Social Security-covered employment while the employee is working for the Federal government. Earnings are projected back to the year in which the employee became age 22. In recording actual Federal earnings, or calculating non-Federal earnings, only salary up to the Social Security maximum taxable wage base for the year is considered.

Calculation of Social Security salary base

Under the proposal, an employee born in 1960 will be first eligible to retire at age 56 with 30 years of service. This employee

would have reached age 62 in 2022. There would have been four years of potential Social Security earnings from non-Federal employment starting with the year the employee became age 22 and ending with the year before the first full year of Federal service at age 26.

The salary is known for the period of Federal employment from 1986 through 2015. Salary before 1986 is estimated by multiplying the first year's Federal earnings of $20,000 by the ratio of average Social Security wages in 1986. For example the average Social Security wage in 1982 was 83.3% of wages in 1986. The estimated 1982 salary is therefore $20,000 times .833 or $16,669.

After the salaries are filled in for each year, all salaries are projected to 2014 by multiplying by the ratio of average Social Security wages in 2014 to the average Social Security wages in the earnings year. The $20,000 salary for 1986, for instance, is multiplied by the change in wages to produce an updated number of $89,557. (The Social Security calculation indexes wages to age 60 so the fiction of assuming that the age-56 employee is age 62 in 2016 would require indexing to 2014.)

The benefit computation period is the number of years after age 26 and before the year the supplement begins, or 29 years in the example. The average monthly salary is based on the highest salary years for the number of years needed for the benefit computation period. Years with lower salary are ignored in the calculation. In the illustration, the average monthly salary for the highest 29 years is $9,938.

Calculation of supplement

The Primary Insurance Amount (PIA) is the base that is calculated before any reductions for age. The PIA is 90% of the base salary up to the first salary step, 32% between the first and the second steps, and 15% above the second step. The steps are the original levels of $180 and $1,085 in 1979 increased by the growth in average Social Security wages. In the illustration, the steps have been indexed to $1,437 and $8,662 so the PIA is $3,797 a month.

In determining the supplement it is assumed that the Social Security benefit will begin at age 62 so the PIA must be reduced from the full Social Security retirement age. An employee born in 1960 will be eligible for the full Social Security benefit at age 67 and the reduction factor will be 70%, for an initial Social Security benefit of $2,650 in the example. Inflation after age 56 is assumed to be zero so the initial benefit is not adjusted for inflation.

Section 8421(b)(3) prescribes that the supplement will be reduced by the ratio of Federal service to the assumed full career of 40 years. In the illustration the ratio is 30 years to 40 years, so the monthly supplement is $1,994.

Other cases

Example two shows the calculation for an employee with a break in service. The age and service at retirement are the same as in example one but the employee entered at age 22, left at age 40 and returned at age 43. Therefore, the unknown salary years are from age 40 to age 43. These are filled in by reference to the $75,000 salary at age 44, the first complete year after re-entry, and the

growth in the average Social Security wages from the missing salary year to the year in which the employee is age 44. For instance, the average Social Security wages in the year 2001 are projected to be 85.2% of the average wages in the year 2004 when the employee is age 44. Therefore, the salary at age 41 is estimated as $63,871 or 85.2% of $75,000.

Example three shows the supplement for an employee retiring at age 51 under the involuntary retirement conditions and first receiving the supplement at age 56. The salaries are available to the year of retirement and filled in from the year the employee was age 22 until the entry into Federal service.

EDWIN C. HUSTEAD,
Hay/Huggins Co.,
May 25, 1986.

Example One - Calculation of Benefit

Supplemental Benefit Paid until Age 62

Amount Determined under 8421(b)(1)
of H.R. 2672

I. Basic Data on Employee

Date of birth	January 1960
First full year of Federal service	1986
Date leaving Federal service	January 2016
Age at retirement from Federal service	56
Date reaching age 62	January 2022
Benefit computation years	29
Civilian Federal service	30

II. Basic Social Security Benefit - PIA

Average monthly salary	$9,937.92
Lower PIA bend point	$1,437
Higher PIA bend point	$8,662
PIA before reduction for age and Federal service	$3,797

III. Reduction for Early Retirement

Reduction factor	70.0%
Net PIA specified by 8421(b)(2)	$2,658

IV. Portion of Benefit Attributable to Federal Service

Fraction specified by 8421(b)(3)	
Total Federal service 8421(b)(3)(A)	30
Full career 8421(b)(3)(B)	40
Fraction	75.0%

MONTHLY SUPPLEMENT $1,994

Example One - Salary History

Determination of Average Salary for Social Security Benefit

Employee Retiring at Age 56

Calendar Year	Age	Covered Wages for Year	Basis	Wage Index	Indexed Wage	Highest 29
1982	22	16669	Estimate	5.373	89557	
1983	23	17481	Estimate	5.123	89557	
1984	24	18509	Estimate	4.839	89557	
1985	25	19231	Estimate	4.657	89557	
1986	26	20000	Actual	4.478	89557	
1987	27	21680	Actual	4.244	92019	92019
1988	28	23479	Actual	4.023	94461	94461
1989	29	25405	Actual	3.813	96878	96878
1990	30	27463	Actual	3.615	99266	99266
1991	31	29660	Actual	3.426	101618	101618
1992	32	32003	Actual	3.248	103930	103930
1993	33	34499	Actual	3.078	106196	106196
1994	34	37155	Actual	2.918	108410	108410
1995	35	39979	Actual	2.766	110568	110568
1996	36	42977	Actual	2.621	112664	112664
1997	37	46158	Actual	2.485	114693	114693
1998	38	49527	Actual	2.355	116650	116650
1999	39	53093	Actual	2.232	118530	118530
2000	40	56863	Actual	2.116	120327	120327
2001	41	60843	Actual	2.006	122038	122038
2002	42	65042	Actual	1.901	123657	123657
2003	43	69464	Actual	1.802	125181	125181
2004	44	74118	Actual	1.708	126605	126605
2005	45	79010	Actual	1.619	127925	127925
2006	46	84146	Actual	1.535	129138	129138
2007	47	89531	Actual	1.455	130239	130239
2008	48	95172	Actual	1.379	131227	131227
2009	49	101072	Actual	1.307	132098	132098
2010	50	107238	Actual	1.239	132849	132849
2011	51	113672	Actual	1.174	133479	133479
2012	52	120492	Actual	1.113	134111	134111
2013	53	127722	Actual	1.055	134747	134747
2014	54	135385	Actual	1.000	135385	135385
2015	55	143508	Actual	1.000	143508	143508
2016	56	0	Zero	1.000	0	

Example Two - Calculation of Benefit

Supplemental Benefit Paid until Age 62

Amount Determined under 8421(b)(1)
of H.R. 2672

I. Basic Data on Employee

Date of birth	January 1960
First full year of Federal service	1982
Period not in Federal service	2000 to 2003
Date leaving Federal service	January 2016
Age at retirement from Federal service	56
Date reaching age 62	January 2022
Benefit computation years	29
Civilian Federal service	30

II. Basic Social Security Benefit - PIA

Average monthly salary	$10,053.34
Lower PIA bend point	$1,437
Higher PIA bend point	$8,662
PIA before reduction for age and Federal service	$3,814

III. Reduction for Early Retirement

Reduction factor	70.0%
Net PIA specified by 8421(b)(2)	$2,670

IV. Portion of Benefit Attributable to Federal Service

Fraction specified by 8421(b)(3)	
Total Federal service 8421(b)(3)(A)	30
Full career 8421(b)(3)(B)	40
Fraction	75.0%

MONTHLY SUPPLEMENT $2,003

Example Two - Salary History

Determination of Average Salary for Social Security Benefit

Employee Retiring at Age 56

Calendar Year	Age	Covered Wages for Year	Basis	Wage Index	Indexed Wage	Highest 29
1982	22	15546	Actual	5.373	83525	
1983	23	16557	Actual	5.123	84822	
1984	24	17633	Actual	4.839	85320	
1985	25	18779	Actual	4.657	87455	
1986	26	20000	Actual	4.478	89557	
1987	27	21680	Actual	4.244	92019	92019
1988	28	23479	Actual	4.023	94461	94461
1989	29	25405	Actual	3.813	96878	96878
1990	30	27463	Actual	3.615	99266	99266
1991	31	29660	Actual	3.426	101618	101618
1992	32	32003	Actual	3.248	103930	103930
1993	33	34499	Actual	3.078	106196	106196
1994	34	37155	Actual	2.918	108410	108410
1995	35	39979	Actual	2.766	110568	110568
1996	36	42977	Actual	2.621	112664	112664
1997	37	46158	Actual	2.485	114693	114693
1998	38	49527	Actual	2.355	116650	116650
1999	39	53093	Actual	2.232	118530	118530
2000	40	60541	Estimate	2.116	128111	128111
2001	41	63871	Estimate	2.006	128111	128111
2002	42	67384	Estimate	1.901	128111	128111
2003	43	71090	Estimate	1.802	128111	128111
2004	44	75000	Actual	1.708	128111	128111
2005	45	79950	Actual	1.619	129447	129447
2006	46	85147	Actual	1.535	130674	130674
2007	47	90596	Actual	1.455	131788	131788
2008	48	96304	Actual	1.379	132788	132788
2009	49	102275	Actual	1.307	133669	133669
2010	50	108513	Actual	1.239	134429	134429
2011	51	115024	Actual	1.174	135066	135066
2012	52	121926	Actual	1.113	135706	135706
2013	53	129241	Actual	1.055	136349	136349
2014	54	136996	Actual	1.000	136996	136996
2015	55	145215	Actual	1.000	145215	145215
2016	56	0	Zero	1.000	0	

Example Three - Calculation of Benefit

Supplemental Benefit Paid from Age 56 until Age 62

Amount Determined under 8421(b)(1)
of H.R. 2672

I. Basic Data on Employee

Date of birth	January 1960
First full year of Federal service	1991
Date leaving Federal service	January 2011
Age at retirement from Federal service	51
Supplement payable at age	56
Date reaching age 62	January 2022
Benefit computation years	29
Civilian Federal service	20

II. Basic Social Security Benefit - PIA

Average monthly salary	$8,015.06
Lower PIA bend point	$1,437
Higher PIA bend point	$8,662
PIA before reduction for age and Federal service	$3,398

III. Reduction for Early Retirement

Reduction factor	70.0%
Net PIA specified by 8421(b)(2)	$2,379

IV. Portion of Benefit Attributable to Federal Service

Fraction specified by 8421(b)(3)	
Total Federal service 8421(b)(3)(A)	20
Full career 8421(b)(3)(B)	40
Fraction	50.0%

MONTHLY SUPPLEMENT

$1,190

Example Three - Salary History

Determination of Average Salary for Social Security Benefit

Employee Retiring at Age 51

Calendar Year	Age	Covered Wages for Year	Basis	Wage Index	Indexed Wage	Highest 29
1982	22	15943	Estimate	5.373	85654	85654
1983	23	16719	Estimate	5.123	85654	85654
1984	24	17702	Estimate	4.839	85654	85654
1985	25	18393	Estimate	4.657	85654	85654
1986	26	19128	Estimate	4.478	85654	85654
1987	27	20180	Estimate	4.244	85654	85654
1988	28	21290	Estimate	4.023	85654	85654
1989	29	22461	Estimate	3.813	85654	85654
1990	30	23697	Estimate	3.615	85654	85654
1991	31	25000	Actual	3.426	85654	85654
1992	32	26975	Actual	3.248	87602	87602
1993	33	29079	Actual	3.078	89512	89512
1994	34	31318	Actual	2.918	91379	91379
1995	35	33698	Actual	2.766	93198	93198
1996	36	36226	Actual	2.621	94964	94964
1997	37	38906	Actual	2.485	96675	96675
1998	38	41747	Actual	2.355	98324	98324
1999	39	44752	Actual	2.232	99908	99908
2000	40	47930	Actual	2.116	101424	101424
2001	41	51285	Actual	2.006	102866	102866
2002	42	54823	Actual	1.901	104231	104231
2003	43	58551	Actual	1.802	105515	105515
2004	44	62474	Actual	1.708	106715	106715
2005	45	66598	Actual	1.619	107828	107828
2006	46	70927	Actual	1.535	108850	108850
2007	47	75466	Actual	1.455	109779	109779
2008	48	80220	Actual	1.379	110611	110611
2009	49	85194	Actual	1.307	111345	111345
2010	50	90391	Actual	1.239	111978	111978
2011	51	0	Zero	1.174	0	
2012	52	0	Zero	1.113	0	
2013	53	0	Zero	1.055	0	
2014	54	0	Zero	1.000	0	
2015	55	0	Zero	1.000	0	
2016	56	0	Zero	1.000	0	

ILLUSTRATIONS OF EARNINGS TEST

The examples below are based on retirement at age 57 in 2027 or later, with 30 years service. Amounts are in 1986 dollars.

	Employee's final pay				
	$15,000	$30,000	$45,000	$60,000	$75,000
Estimated supplement.....	$2,900	$4,600	$5,200	$5,400	$5,400
Annual exempt amount.....	5,760	5,760	5,760	5,760	5,760
Amount employee may earn and receive:					
-- All of supplement.....	5,760	5,760	5,760	5,760	5,760
-- Half of supplement....	8,660	10,360	10,960	11,160	11,160
-- No supplement.....	11,560	14,960	16,160	16,560	16,560
Percent of final pay employee may earn and receive:					
-- All of supplement.....	38%	19%	13%	10%	8%
-- Half of supplement....	58	35	24	19	15
-- No supplement.....	77	50	36	28	22

NOTE: Although the amounts used in the earnings test under FERS are the same as under Social Security, FERS uses a retrospective method. Thus, in the first year FERS pays the full supplement, and applies the earnings test after year-end. Any overpayments for the year then ended are recovered from later years' payments of the supplement and annuity. The same procedure is followed in succeeding years.